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Handbook of Leave Administration

U.S. DEPARTMENT OF COMMERCE

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HANDBOOK
OF LEAVE
ADMINISTRATION

U.S. DEPARTMENT OF COMMERCE

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SECTION 1. INTRODUCTION

.01 Purpose

The purpose of this Handbook is to state the principal requirements of law, regulation, and policy relating to the absence of employees and to the administration of leave.

.02 Related Laws, Regulations, and Guidance

a. Law: Chapter 63 of Title 5, U.S. Code

b. Regulations and Guidance

1. 5 CFR 550, FPM Chapter 550, "Pay Administration (General)"

2. 5 CFR 610, FPM Chapter 610, "Hours of Duty"

3. 5 CFR 630, FPM Chapter 630, "Absence and Leave"

4. FPM Supplement 990-2, "Hours of Duty, Pay, and Leave, Annotated"

5. DAO 202-630, "Absence and Leave"

.03 Coverage

All employees of the Department are entitled to the leave benefits described in this Handbook, except the following:

a. Officers appointed by the President by and with the advice and consent of the Senate, or by the President alone, to positions for which rates of basic compensation may exceed the maximum rate provided in the General Schedule, and such other officers as may have been designated under authority delegated in Executive Order 10540, dated June 29, 1954 (19 FR 3983), to the Director of the Office of Personnel Management;

b. Part-time employees who do not have a regular, established tour of duty prescribed in advance (i.e., intermittent or WAE employees);

c. Temporary employees hired solely for the purpose of work on a specific construction project and paid at hourly rates;

d. Employees appointed without compensation;

e. Employees paid on a fee basis; and

f. Commissioned officers of the NOAA Corps.

.04 Telegrams and Telephone Calls Regarding Leaves of Absence

Telegrams or telephone calls making application for a leave of absence, extension of leave, or similar purposes shall be at the expense of the employee.

.05 Absence Due to Injury While Serving Abroad

No leave is to be charged to an employee for absence of up to one year due to any injury incurred while serving abroad and resulting from war, insurgency, mob violence, or similar hostile action, and not due to vicious habits, intemperance, or willful misconduct on the employee's part. This entitlement is independent of any claim or entitlement of the employee under Chapter 81 of Title 5, U.S. Code, relating to injury compensation.

SECTION 2. ANNUAL LEAVE

.01 Purposes

Annual leave is a period of approved absence with pay from official duties and is provided to:

a. Allow an employee an annual vacation period of extended leave for rest and recreation; and

b. Allow periods of time off for personal and emergency purposes, such as a death in the employee's family, religious observances, securing a driver's permit, or similar personal business which normally is taken care of during the employee's hours of work.

.02 Department Policy

Annual leave is a benefit and accrues automatically. All employees are expected to use their annual leave judiciously. Supervisors have the discretion to decide when and in what amount annual leave may be taken. This decision will generally be made in the light of the needs of the service, rather than solely on the desires of the employee.

a. ***Leave for vacation purposes.*** Vacations are considered to be beneficial to the well-being of employees

and their ability to work at a high level of efficiency. Employees are encouraged to take at least one extended vacation per year, as dictated by their own needs and the status of their leave accounts.

b. ***Leave for personal purposes.*** Except in emergency situations, annual leave used for personal purposes shall be requested and approved to permit careful scheduling of leave for all employees concerned and to meet the needs of the work unit.

c. ***Unplanned and emergency leave.*** It is recognized that leave cannot always be planned and requested in advance. Annual leave may be granted in unplanned or emergency situations by the supervisor after considering the needs expressed by the employee for requesting unplanned leave and the needs of the work unit.

If the supervisor determines that the needs of the work unit preclude a grant of leave, or if the reasons expressed by the employee for absence are not acceptable to the supervisor, the supervisor may order the employee to report to duty. In such instances, the supervisor at his/her discretion may grant sufficient time on approved leave to reach the worksite or, as circumstances warrant, charge all or part of the absence to absence without leave (AWOL).

d. ***Non-forfeiture policy.*** Special attention must be given to the scheduling of leave to avoid forfeiture. No employee should be put in a position where leave must be forfeited and cannot be restored. However, if an employee does not request leave or voluntarily does not use leave that was approved, any resulting forfeiture will be considered to be by the employee's choice and not restorable.

e. ***Leave before separation.*** It is the policy of the Department to require that an employee be separated rather than granted extended annual leave when it is known in advance that the employee does not intend to return to duty at the conclusion of the leave period (24 Comp. Gen. 511). An exception may be granted in individual cases, where it is definitely indicated that an advantage will be gained by the Government, or that some special need or interest of the Government will be served by the granting of such leave (34 Comp. Gen. 61); these exceptions may be granted by the leave-approving official with the concurrence of the appropriate personnel officer. A memorandum setting forth the reasons for approval of such leave should be given to the payroll office. This policy does not apply to employees who are awaiting a decision of the Office of Personnel Management or the Office of Workers' Compensation concerning their retirement or compensation for disability.

.03 Accrual of Leave

a. ***Full-time employees.*** All full-time employees, regardless of their hours of duty, whether they are employed on a per annum, per diem, hourly or piece work basis, or whether employed on a temporary (to serve for 90 days or more), indefinite or permanent basis, shall earn and be credited with annual leave as follows (see FPM Supplement 296-33, Chapter 6, for rules on crediting service for leave accrual purposes; see paragraph .07 of this section for leave accrual for aliens and national employees):

1. One-half day for each full biweekly pay period in the case of employees with less than three years of creditable service;

2. Three-fourths day for each full biweekly pay period (except that the accrual for the last full biweekly pay period in the calendar year shall be one and one-fourth days) in the case of employees with three but less than fifteen years of creditable service; and

3. One day for each full biweekly pay period in the case of employees with fifteen years or more of creditable service.

b. ***Part-time employees.*** Part-time employees for whom there has been established in advance a regular tour of study on one or more days during each administrative workweek shall earn annual leave in proportion to the hours worked and their years of service as shown below (31 Comp. Gen. 581; 32 Comp. Gen. 206). However, any hours in a pay status in excess of the Department's basic working hours in any pay period or in excess of 40 hours in a workweek shall be excluded in the computation of earned leave:

1. One hour of annual leave for each twenty hours in a pay status in the case of employees with less than three years of creditable service;

2. One hour of annual leave for each thirteen hours in a pay status in the case of employees with three but less than fifteen years of creditable service; and

3. One hour of annual leave for each ten hours in a pay status in the case of employees with fifteen years or more of creditable service.

c. ***Change between part-time and full-time positions.*** The leave accrual for an employee who is changed from a part-time to a full-time position, or vice versa, during a biweekly pay period without a break in service is based on the number of hours of service of part-time employment and the pro rata leave table in Book 630, FPM Supplement 990-2, for the number of days worked as a full-time employee (unpublished decision of the Comptroller General B-112731, dated December 4, 1952).

d. ***Less than full biweekly pay period.*** Employees will not accrue annual leave for any period of employment which is less than a full biweekly pay period, except: (1) where a transfer occurs between positions with different pay periods (biweekly, semi-monthly, etc.); (2) where continuity of employment is interrupted by a non-leave-earning period and the employee will return to a leave-earning status (see table in subchapter 2, Book 630, FPM Supplement 990-2); or (3) where the employee enters on duty on the first workday following a holiday

which falls on the first workday of the pay period (unpublished decision of the Comptroller General B-125-537, dated October 6, 1955).

e. ***Reduction in leave based on nonpay status.*** Although an employee earns leave during each full biweekly pay period while in a pay status or a combination of pay and nonpay status, the leave to the credit of a full-time employee shall be reduced whenever the employee amasses enough hours of absence in a nonpay status during one leave year to equal the number of base-pay hours in one pay period. The reduction in leave credits shall be the amount that is earned in one pay period at the current annual rate. (See subparagraph .06e. of this section if leave is overdrawn.) Hours in a nonpay status which are not sufficient to require a reduction in leave credits are dropped at the end of the leave year. It should be noted that entire pay periods in a nonpay status, when no leave accrues, are not counted for this purpose. For example, if an employee earning six hours of leave each pay period is absent without pay for 16 hours during one pay period, bringing that person's total absences without pay in the same leave year to 80 hours, the employee's annual leave credit is reduced by six hours (and the sick leave credit by four hours). Additional absences without pay have the same effect if they again add up to 80 hours before the end of the leave year.

f. ***Pay periods other than biweekly.*** Employees who are paid on other than a biweekly pay period basis earn and are credited with leave on a pro rata basis for a full pay period. (See table in Book 630, FPM Supplement 990-2.)

g. ***Restriction for temporary employees.*** An employee who is appointed to serve for less than 90 days is not entitled to annual leave, unless through successive appointments without a break in service the employee's actual period of service extends to 90 days or more. When the employee reaches the 90th day of continuous employment, or when he/she becomes eligible for annual leave sooner because of a new appointment (by conversion, extension, change in appointing office, etc.) which is not limited to less than 90 days, credit for annual leave is retroactive from the date of initial appointment.

.04 Maximum Accumulation of Regular Annual Leave

a. ***Employees stationed in the United States.*** Except as provided in this paragraph, the maximum amount of annual leave, other than restored annual leave, which a full-time employee may accumulate and carry forward into a succeeding year may not exceed 30 days at the beginning of the first complete biweekly pay period, or corresponding period in the case of an employee who is not paid on the basis of biweekly pay periods, occurring in any year.

1. A full-time employee who had accumulated regular annual leave in excess of 30 days immediately following the end of the last pay period in 1952 is entitled to carry over this maximum accumulation into succeeding leave years. This maximum accumulation continues as the employee's personal leave ceiling for carryover to succeeding years until such time as the employee carries a smaller accumulation of annual leave from one leave year to another. At that time, this smaller accumulation becomes the employee's new annual leave ceiling, unless this accumulation is less than 30 days, in which case 30 days becomes the new ceiling.

2. When an employee leaves a post in which he/she has been eligible for a maximum accumulation of 45 days of regular annual leave, the maximum amount of regular annual leave that may be carried forward into the next leave year shall not exceed 45 days (or his/her personal leave ceiling if it exceeds 45 days). The amount which shall be carried forward is the amount to his/her credit at the end of the pay period which includes the date (a) on which the employee departs from his/her post of duty except that if he/she is required to perform duty en route to a post in which he/she would still be subject to the 45-day ceiling, it shall be the date on which he/she ceases to perform such duty, or (b) on which final administrative approval is given to effect a change in the employee's duty station when he/she is on detail or on leave in the United States, or any of its territories and possessions including the Commonwealth of Puerto Rico from which he/she was recruited or transferred.

3. Annual leave accrued by an individual while serving under an appointment in the Senior Executive Sevice (SES) accumulates without limit. When an individual enters the SES, if his/her leave balance is above the applicable ceiling at the time, that portion of leave which was above ceiling at conversion to SES is still subject to ceiling, that is, must be used or lost by the end of the leave year. The additional leave subsequently earned while in leave for any pay period during only a portion of which the employee served under an SES appointment shall be prorated, and only that portion of the leave associated with service in the SES shall be free of the usual limitations on leave accumulation.

When an SES employee moves to a position not in the SES, any annual leave which was accumulated while serving in the SES and which is in excess of the limits applicable to non-SES employees, shall become the employee's individual leave ceiling for purposes of carryover into succeeding leave years. This individual ceiling is applicable until the employee carries over a smaller balance to a succeeding leave year, at which time that smaller balance or 30 days, whichever is greater, becomes the employee's new leave ceiling.

b. ***Employees stationed overseas.*** (See, too, paragraph .07 of this section.) Employees of the Department stationed overseas are eligible to accumulate only 30 days of regular annual leave, except that a maximum accumulation not to exceed 45 days (or more for those individuals who have carried a higher "personal" ceiling

since 1952) at the beginning of the first complete biweekly pay period in any leave year (or corresponding period for those not paid biweekly) is authorized for those overseas employees in the following categories:

1. Persons directly recruited or transferred by the Federal Government from a United States area (i.e., from the United States or its territories and possessions including the Commonweath of Puerto Rico) for employment outside the area of recruitment or from which transferred.

2. Persons employed locally (a) who were originally recruited from a United States area (other than the area of employment) who have been in substantially continuous employment by other Federal agencies, United States firms, interests, or organizations, international organizations in which the United States Government participates, or foreign governments, and whose conditions of employment provided for the return transportation to a United States area; or (b) who were at the time of their employment absent for the purpose of travel or formal study from their residence in a United States area, and who during such temporary absence have maintained residence in such area of origin (but outside the area of employment).

3. Persons who are not normally residents of the overseas area and who are discharged from service in the Armed Forces of the United States to accept employment with the Department.

The date on which an eligible employee becomes subject to the 45-day leave ceiling is (a) the date of entry on duty when employed locally, (b) the date of arrival at a post of regular assignment for duty, or (c) the date on which the employee begins to perform duty in an overseas area when such duty is required to be performed en route to the post of regular assignment.

c. ***Recredit of ceiling when reemployed.*** When an employee who is entitled to carry forward more than 30 days of leave is separated and reemployed during the time covered by the lump-sum payment, the employee's new leave accumulation ceiling is determined at the end of the leave year in which reeemployed, as follows: the leave chargeable to the period of separation is added to the leave used during the leave year; if this total exceeds the amount of leave earned during the year, the excess is subtracted from the employee's previous leave ceiling. The resulting figure (if still more than 30 days) is the employee's new ceiling to be carried forward into the new leave year. This computation is correct even when separation and reemployment occur in different leave years (38 Comp. Gen. 91).

d. ***Part-time employees.*** Part-time employees may accumulate not more than 240 hours or 360 hours of annual leave, on the same basis that full-time employees accumulate 30 days or 45 days of annual leave.

.05 Scheduling and Granting Annual Leave

Employees shall schedule and be granted leave, consistent with the policies set forth in paragraph .02 of this section.

a. ***Scheduling.***

1. No later than March 1 of each year, supervisors shall consult employees about their vacation plans and shall prepare a vacation schedule which accommodates the employees' preferences consistent with the needs of the organization. Form CD-101 (Leave Chart) or a comparable schedule should be used to record approved vacations and other anticipated periods of absence, such as absence for military training, as they become known. Scheduled leave that is not taken is to be rescheduled promptly.

2. No later than October 1 of each year, operating units will call to the attention of employees the statutory leave-forfeiture requirements and the following policy: use of annual leave which an employee does not wish to forfeit must be requested and approved, specifically and in writing, before the beginning of the third last biweekly pay period in the leave year. In order to facilitate the scheduling of work, an operating unit may find it desirable to set an earlier date for such leave requests and approvals. SF-71 (Application for Leave) should be used to record the request and approval of excess leave which has not otherwise been requested and approved in writing. Excess leave which is not timely scheduled may nevertheless be approved for use late in the leave year as the work situation may permit, but if forfeited there can be no consideration of restoring such leave under paragraph .09 of this section.

b. ***Granting advanced annual leave.*** Employees may be granted annual leave which is already to their credit or which is expected to accrue under their current appointment by the close of the leave year. This will permit the use of leave in accordance with their needs and the needs of their operating unit whenever practicable, and will avoid the forfeiture of leave at the end of the year. However, a grant of leave to a temporary employee may exceed the amount already accrued only with the written concurrence of a supervisor higher in organizational rank or status than the supervisor who ordinarily approves leave for that employee. When advances are granted, it will be expressly understood that if such leave is not earned during the year, a refund will be required, except for cases of death, disability (supported by acceptable medical evidence), retirement for disability, or entrance on active military duty with restoration rights. (See subparagraph .06e. of this section for action to be taken in connection with overdrawn annual leave.)

c. ***Granting leave before separation for reduction in force.*** Employees to be separated for reduction in force will be granted annual leave on request for interviews with prospective employers outside the Department.

Absence for employment interviews may also be charged to other appropriate paid leave, compensatory time or to leave without pay, as appropriate. If the separation will occur after the end of the leave year, employees should be granted any leave which is subject to forfeiture during the notice period.

d. ***Granting leave to employees indebted to the United States.*** An employee indebted to the United States (because of delinquent income tax, overpayments of pay or allowances, etc.) shall be granted annual leave only to the extent that it will not reduce the amount of the lump-sum payment for annual leave, in the event of the employee's separation, below the amount necessary to offset the debt (including interest and penalty, if any), except that the head of an operating unit (or that official's designee) may allow the granting of annual leave in the interest of the employee's health or welfare, or for humanitarian reasons, or when there is reason to expect a waiver of overpayment under 5 U.S.C. 5584.

e. ***Substitution of annual leave for sick leave.*** An approved absence otherwise chargeable to sick leave may be charged to annual leave if the employee so requests before the employee's right to have the absence charged to sick leave has been exercised. Annual leave may not be substituted for sick leave previously granted and recorded where the substitution is solely for the purpose of avoiding forfeiture of annual leave by the employee (31 Comp. Gen. 524). However, advanced sick leave may be liquidated by a charge against annual leave retroactively if the substitution is made before the annual leave would otherwise be forfeited and if the annual leave would have been granted for current use if requested by the employee (37 Comp. Gen. 439; 38 Comp. Gen. 354). A retroactive substitution of leave subject to forfeiture is also allowable if the illness for which annual leave is to be charged began well before the end of the year and the employee did not control the charging of all the time to sick leave (Comp. Gen. B-178583, June 14, 1973).

f. ***Special leave procedures.*** When an employee appears to be misusing the procedures for request and approval of leave (for example, by chronic requests for unplanned emergency leave under dubious circumstances), the employee may be required to comply with special leave procedures more stringent than those applied to other employees. For example, the employee may be required to notify the leave-approving official personally of an unanticipated absence, or to document with evidence any unscheduled, emergency absences. An employee who is being placed on special leave procedures should be notified in writing, in advance, of the procedures and their duration.

.06 Charging Annual Leave

a. ***Minimum charge for leave.*** The minimum charge for annual leave is one hour, and additional leave will be charged in multiples of one hour. Where the leave charge exceeds the period of absence, the employee will not be required to work for the period between time of actual absence and the time charged to leave.

b. ***Holidays and nonworkdays.*** Annual leave may not be charged for absence on holidays or regular nonworkdays or during periods when overtime has been scheduled.

c. ***Per diem and per hour employees.*** For these employees, leave is charged only for absences occurring during the first 40 hours of the regularly scheduled workweek for which compensation is paid at straight-time rates, or for only the first eight hours of any day if the employee is entitled to payment for overtime after the eight-hour duty period. Leave will not be charged for absence during periods when overtime has been scheduled.

d. ***Part-time employees.*** For these employees, leave will be charged for absences from regularly scheduled duty.

e. ***Overdrawn annual leave.*** When a reduction in annual leave credits (subparagraph .03e) results in a debit in the employee's annual leave account at the end of the leave year, the debit shall be carried forward and charged against leave to be earned during the next leave year. If an employee fails to accrue sufficient leave to reduce the debit, the employee is required to refund the amount unliquidated. Upon separation, the period covered by an employees' refund of unearned advance leave will not be considered as a non pay status and no further deduction is required.

.07 Aliens and National Employees

Aliens and national employees who occupy positions outside the United States may, at the discretion of the operating unit concerned, accrue and be granted annual leave in accordance with provisions of this section. In lieu of applying the standard leave regulations to these employees, units may establish leave privileges and regulations for them based on local prevailing practices. However, leave may not exceed the amount granted to citizen employees, and the maximum accumulation of annual leave for locally recruited and national employees may not exceed 30 days at the beginning of the first complete biweekly pay period in any year (or corresponding period in the case of employees not paid on the basis of biweekly pay periods), except that aliens who had accumulated annual leave in excess of 30 days at the close of the last complete pay period in 1952 may retain such amount until used.

.08 Enforced Annual Leave

In addition to determining whether employees may use their annual leave when requested or at some time more in harmony with work requirements, supervisors have the administrative discretion to place employees on annual leave, with or without their consent, under the conditions and limitations set forth in this paragraph

and with the concurrence of their superiors whenever practicable (38 Comp. Gen. 203; 40 Comp. Gen. 312; 41 Comp. Gen. 774). Supervisors should consider use of administrative leave when appropriate, and should consult the personnel office if practicable when considering use of enforced annual leave.

a. Employees who are ready, willing, and able to perform their duties may not be placed on enforced annual leave as a disciplinary action, as a prelude to disciplinary action (i.e., during or just prior to any advance notice period leading up to a disciplinary action) or during investigation of suspected wrongdoing. Such an action constitutes a suspension requiring adverse action procedures.

b. Employees may be placed on enforced annual leave in nondisciplinary situations such as the following:

1. When for managerial reasons (equipment or power failures, closing of offices, etc.) the period of absence exceeds five workdays;

2. When there is a temporary lack of work or funds; this necessity also could arise during all or part of an advance notice period in a reduction in force; or

3. When the employee is not ready, willing, or able to work, and other forms of leave are not available or not appropriate (for example, when an employee reports without essential equipment or admits that he/she is incapacitated for duty, or when a physician's report or other clear and reasonable evidence indicates that the employee's presence at work would be hazardous to him/herself or others).

c. Action to place an employee on enforced leave should be taken or confirmed by memorandum to the employee. A copy should be provided for the Official Personnel Folder.

.09 Restoration of Forfeited Leave

Specific officials of the Department described herein as "approving officials" shall authorize the temporary restoration of annual leave which is in excess of an individual employee's maximum accumulation for carrying over into a new leave year when the forfeiture of leave is caused by illness, administrative error, or an exigency of the public business. Annual leave also may be restored as determined by the Office of Personnel Management for an employee who returns to duty from a missing status (see paragraph .09e).

a. ***Approving officials.***

1. The authority to approve restoration of annual leave forfeited because of an exigency of the public business is reserved as follows:

(a) In the Office of the Secretary, the appropriate Assistant Secretary or the General Counsel shall be the approving official, or the Deputy Secretary or his/her designee for offices which do not report to those officials;

(b) In an operating unit, the head of the operating unit or any designated management official who reports to that person shall be the approving official, except that at a major field operation of the Department, this authority may be delegated to the head of the operation by the head of the appropriate operating unit with the prior concurrence of the Departmental Office of Personnel; and

(c) If the approving official has a personal interest in the decision either as a member of the immediate working unit affected or as a person who might benefit from the decision, the decision shall be made by a higher official.

2. In the interest of fairness and consistency, an operating unit may reserve approval authority for other restorations of leave to the aforementioned management officials. When such an arrangement is deemed impracticable, approval authority may be delegated within the following limits;

(a) In a case of annual leave forfeiture caused by illness, the approving official must be at a management level higher than the level at which leave is ordinarily scheduled and approved for the concerned employee; and

(b) In a case of annual leave forfeiture resulting from correction of an administrative error, the approving official must be superior in authority or organizational status to the office responsible for the error or correction.

b. ***Illness.***

1. When annual leave which was properly scheduled (or rescheduled) and approved for use before the end of the leave year must be forfeited solely because of an illness (including an injury or other condition for which sick leave may be approved) occurring or lasting so late in the leave year as to make impossible the use of the scheduled annual leave, the approving official shall restore to the employee's credit that amount of scheduled excess annual leave which the employee was prevented from using. Annual leave restored for this reason shall be credited to a separate leave account and must be scheduled and used no later than the end of the leave year which ends two years after the date the employee is determined to be recovered and able to return to duty; otherwise it is again forfeited without the possibility of restoration. For example, annual leave restored in February 1982 would have to be used before the end of the 1984 leave year.

2. An approving official shall not restore leave forfeited because of illness (a) when a reasonable person could have foreseen the absence which would preclude the use of excess annual leave (as in planned surgery or therapy or normal maternity cases); (b) when there was a failure to reschedule annual leave during the leave year; or (c) when the employee recovered soon enough to use excess annual leave.

3. An employee retains the option to have an absence recorded as annual leave rather than sick leave (but

not retroactively, except as in subparagraph .05e. of this section). Where appropriate, a supervisor should remind a sick employee of this option when it appears that the employee may end the leave year with excess annual leave. The employee should be made aware of the value of saving the sick leave and the difficulty of having to use restored annual leave along with regular accrued leave in the years ahead; however, a decision to use sick leave which results in a forfeiture of annual leave will not preclude the employee from requesting restoration.

c. ***Administrative error.*** When by correction of an administrative error an employee's adjusted leave credits exceed the amount that could have been carried forward from past leave years, a statement of the circumstances shall be prepared for the appropriate approving official. When that official is satisfied that restoration of excess leave is proper under the terms of this subparagraph, the employee shall be notified that all such excess leave is being credited to a leave account separate from the regular annual leave account. Annual leave restored for this reason must be scheduled and used not later than the end of the leave year which ends two years after the date the leave is restored, or it is forfeited without possibility of restoration. For example, annual leave restored in June 1982 by correction of administrative error would have to be used before the end of the 1984 leave year.

1. Any annual leave earned after June 30, 1960, which would be or has been forfeited as a result of correction of an administrative error, is subject to restoration regardless of the date of the error.

2. Where correction of an administrative error results in the employee being *indebted* for annual leave and repayment of the debt is not waived (see DAO 202-558, "Claims for Overpayment of Pay and Allowances"), the employee may repay in a lump sum or by installments, at the dollar value of the leave when used, or by a charge against accrued or later-accruing leave.

3. Administrative error encompasses such correctable matters as an incorrect determination as to previous service creditable for leave purposes; a mistaken date for movement from one leave-earning category to another; failure to maintain a proper leave ceiling for an overseas employee; a mistaken separation during reduction in force; or a failure by a supervisor to act upon an employee's timely request for leave, which results in a forfeiture.

4. In the case of a former employee who would benefit from correction of an administrative error in his or her leave record, annual leave in excess of the individual's leave ceiling may be liquidated by a final lump-sum payment, under the following conditions:

(a) The individual's last entitlement to a lump-sum payment was as an employee of the Department, and the payment is based on the salary rate at that time. (If the individual was employed thereafter by another Federal agency under a leave system, correction responsibility falls to that agency.); and

(b) The individual (or someone in his/her behalf) must file claim for the lump-sum payment within three years of discovery or notification of the error. (When the individual is unaware of this benefit, notice of entitlement to a lump-sum payment, and instructions as to how to claim it, must be sent to the employee (or survivor) after the decision by the appropriate approving official.)

5. When it is clear that an administrative error occurred and that an adjustment of the leave should be made in favor of the employee or former employee, but official records are not available to determine the precise amount of annual leave to be restored, an approving official may make a reasonable estimate of such leave and must include in the record such official corroboration for the estimate as may be available.

d. ***Exigency of the public business.*** An employee whose annual leave was scheduled and approved specifically and in writing (in accordance with paragraph 2.05a2. of this section), and was canceled because of an exigency of the public business without the opportunity of rescheduling before the end of the leave year, shall have restored to a separate leave account the leave which was forfeited under these circumstances when the appropriate approving official determines that the cancellation and restoration are in accordance with the requirements of this subparagraph. Annual leave restored for this reason must be scheduled and used no later than the end of the leave year which ends two years after the date of termination of the exigency; otherwise it is again forfeited without the possibility of restoration. For example, if leave is forfeited at the end of 1982 because of an exigency which does not end until April 1983, the restored leave must be used by the end of the 1985 leave year.

1. A decision to cancel annual leave that results in a forfeiture must be preceded by at least two judgments (except in an emergency): (a) the exigency must be of such importance that the employees involved cannot be released on leave, and (b) it must be impossible or highly impracticable to substitute other employees for those who would otherwise forfeit annual leave.

2. The beginning and ending dates of the exigency must be clearly determined. Normally this is done in advance, except in emergencies or sudden situations or where the end of the exigency is not predictable.

3. An exigency of the public business shall not be deemed to exist solely because it would be inconvenient or disruptive to have too many employees absent on year-end leave, or because of the pressure of normal workload variations or normal time limits for work completion. Such situations are to be resolved by more careful

scheduling of leave rather than by year-end cancellation and restoration. However, despite careful planning, even an anticipated operational demand may be of such importance as to justify the cancellation of leave and the consideration of the event as an exigency of the public business.

4. An exigency of the public business may be considered to exist when the necessity for requiring forfeiture of excess annual leave arises from circumstances which are beyond the control of the employees affected, which could not reasonably have been anticipated, and which make it impracticable or not in the public interest to grant any affected employees the use of excess leave. An obvious exigency may arise in conection with a natural disaster or other public emergency; it may arise too when a particular program encounters sudden public attention or importance, or when a specific project runs beyond its expected completion or is at some crucial phase at the end of the leave year. For an individual employee, an exigency may arise because of some unforeseen public business occurring toward the end of the leave year and preventing the planned use of the annual leave, e.g., a sudden call to jury duty, or a call to military duty to preserve public order.

5. Particular scrutiny should be given to proposals to restore leave to employees who have forfeited leave in recent years or who are still using leave restored after a previous forfeiture. Such proposals are not to be approved unless there is evidence that the employee made reasonable efforts to schedule and use annual leave throughout the year.

e. ***Missing status.*** An employee who was in a missing status (see 5 U.S.C. 5561 et seq.) on or after January 1, 1965, is entitled to have restored all annual leave which accrued but was forfeited because of his/her continuance in a missing status. The employee may elect a lump-sum payment for such restored leave or may elect to have the restored leave credited to a separate annual leave account for use within a time limit according to a schedule proposed by the operating unit and approved by the Office of Personnel Management.

1. The election must be made in writing within 90 days after the missing status has ended.

2. Former employees (or their survivors or estates) are also covered by the provisions of this subparagraph.

3. Payment is computed at the employee's rate of pay in effect at the time(s) the annual leave was forfeited.

f. ***Recording and administering restored leave.*** Annual leave which has been restored must be scheduled and approved for use under the same policies that apply to regular annual leave. In addition, the following practices shall be observed:

1. When the restoration of forfeited annual leave is proposed, a file shall be furnished to the approving official with at least the following information:

(a) The dates and amounts of leave that were scheduled in the past leave year (and rescheduled when not used as scheduled), including the documents (or copies) on which the request and approvals are recorded;

(b) The reason(s) that scheduled or rescheduled leave was not used—that is, the nature of an illness or injury, or a complete statement of the exigency which required cancellation of leave;

(c) Whether leave was forfeited in the prior leave year, and why, and what efforts have been made to use that leave;

(d) The beginning and ending dates of the illness or exigency, and the amount of forfeited leave which is to be restored. (When the ending dates are not known at the beginning of the new leave year, the approving official may approve provisionally the restoration of the forfeited leave. Upon later establishment of such dates, the period for mandatory use of restored leave is determined; however, if restoration of forfeited leave is approved during a continuing exigency, the employee may use restored leave before the exigency has officially ended.);

(e) In the case of correction of an administrative error, in lieu of the above information, a statement of the nature of and reasons for the error, and a summary reconstruction of the employee's adjusted leave record;

(f) A proposed schedule for use of the restored leave (along with regular annual leave) during the leave years it will be available, if appropriate. The schedule may be amended in time as needed but should be specific enough to satisfy the approving official that repeated forfeitures will be unlikely. (The schedule may be submitted later in those cases where the ending date of the illness or exigency is uncertain.); and

(g) A statement by the appropriate personnel officer for his/her designee) to the effect that approval of the proposed restoration of leave would be consistent with the provisions of this Handbook.

2. When leave is restored by an approving official, the file shall be retained in the appropriate payroll office or other office designated by the operating unit until the leave is used, forfeited again, or liquidated by a lump-sum payment if the employee is separated;

3. The supervisor of an employee whose excess annual leave has been restored shall retain a copy of the schedule for use of that leave and regular annual leave, and shall review the schedule at least quarterly. If leave usage is behind schedule, the employee and supervisor shall prepare an amended leave schedule and forward a copy to the office holding the approval file;

4. Leave restored for more than one reason may be treated as a single block of restored leave (e.g., nearly simultaneous restorations because of illness and administrative error), except when the periods of use of such leave terminate in different leave years.

SECTION 3. SICK LEAVE

.01 Accrual and Accumulation

Sick leave accrues and accumulates to employees as follows, and in accordance with the other factors affecting leave accrual set forth in Section 2.03 (except subparagraph g. thereof:)

a. Full-time employees earn sick leave at the rate of one-half day for each full biweekly pay period (for a total of 13 days per leave year). The accrual shall be credited at the beginning of each pay period. Whenever the absence of a full-time employee in a nonpay status during a leave year equals or exceeds the equivalent of the base pay hours in one biweekly pay period, sick leave credits shall be reduced by the amount that would accrue for each such period;

b. Part-time employees earn sick leave at the rate of one hour for each twenty hours in a pay status. Any hours in excess of eighty in any biweekly pay period shall be disregarded; and

c. Sick leave which is not used during the year in which it accrues shall accumulate without limitation on the amount and be available for use in succeeding years.

.02 Purpose

Sick leave is a period of approved absence with pay from official duty, authorized only:

a. When an employee personally is unfit for official duties because of sickness, injury, or confinement due to pregnancy;

b. For personal medical, dental, or optical examination or treatment; and

c. In certain circumstances involving a contagious disease as provided in paragraph .04 of this section.

.03 Improper Use of Sick Leave

a. An employee shall not use sick leave: (1) when illness or other circumstances do not render the employee personally unfit for duty (e.g., an employee is not unfit for duty merely because of illness in the family, except as provided in paragraph .04); (2) for minor indispositions; (3) to supplement annual leave; or (4) for rest, unless recommended by appropriate medical personnel, in which case sick leave may be granted.

b. When an employee appears to be using sick leave improperly (for example, chronic use of brief periods of sick leave), the employee may be required to comply with special leave procedures more stringent than those applied to other employees. For example, the employee may be required to notify the leave approving official personally within a narrower time frame, or to provide evidence to substantiate brief periods of illness. An employee who is being placed on special leave procedures should be notified in writing, in advance, of the procedures and their duration.

Improper use of sick leave is grounds for adverse action. If considered appropriate by the operating unit, absence on sick leave may be investigated.

.04 Contagious Diseases

Sick leave is authorized when, through exposure to contagious disease as determined by appropriate health authority, the presence of the employee at the workplace would jeopordize the health of others; or when the employee is required to give care to a member of the immediate family who is afflicted with such disease. A contagious disease includes one that is determined by appropriate medical authority to be potentially contagious and requires isolation, quarantine, or restriction of movement of the patient (5 CFR 630.401 and 36 C.G. 183). The employee is to furnish a statement from the appropriate qualified medical practitioner as to the nature of the disease and the length of time that the employee's absence will be necessary. In determining whether an employee may use sick leave to care for a diseased member of the immediate family, consideration may be given to (1) the relationship between the employee and the member of the family; (2) whether they occupy the same quarters; and (3) whether the employee reasonably could make other arrangements for the care of the patient.

.05 Evidence of Entitlement

For purposes of leave under this section:

a. When absence from duty exceeds three workdays, such leave is to be granted only when supported by a statement by medical authority or other administratively acceptable evidence. Administratively acceptable evidence must be documentary, and includes a signed statement from the employee which in the supervisor's judgment provides adequate information to support granting sick leave, or a statement by the supervisor as to the evidence relied upon in granting leave (e.g., personal observation of the employee, hospital admission documents, or similar evidence acceptable to the supervisor);

b. Supervisors may require supporting documents for absences of three days or less when an employee is a chronic user of short periods of sick leave, or has no sick leave balance, or there is reasonable doubt as to the validity of the claim to such leave, or in other special circumstances;

c. In all instances, it is incumbent upon supervisors responsible for approving such leave to determine that the circumstances of the absence justify approval of

such leave. A statement by a medical authority does not necessarily constitute conclusive evidence of entitlement to such leave, but is merely a factor to be considered by a responsible agency official in determining whether such leave is justified under the circumstances involved.

.06 Approval of Absences

a. ***Medical, optical, or dental examinations.*** All employees are expected to obtain prior approval of absence for the purpose of medical, dental, or optical examination or prearranged treatment.

b. ***Substitution of sick for annual.*** Whenever circumstances within a period of annual leave would clearly justify the granting of sick leave rather than annual leave, sick leave may be granted by the leave approving official and the charge against annual leave reduced accordingly. Application for substitution must be made not later than two workdays after the employee returns to duty and must be supported by such evidence as may be specified by the supervisor. In instances where absences due to sickness are charged to annual leave at the employee's request, the employee may not thereafter have such leave charged to sick leave with a concomitant recredit to annual leave (1) when the employee initially makes a timely request, (2) when the employee's original election of annual leave was based on a misunderstanding, or (3) to correct the agency's administrative error.

c. ***Placing employees on sick leave by administrative action.*** Whenever it becomes apparent that an employee's physical or mental condition is such that he/she is unable to perform his/her duties satisfactorily or his/her presence at work is considered to detract from the efficiency of the service, and he/she is unwilling to apply for sick leave, action may be taken by the supervisor concerned to place him/her on involuntary sick leave in accordance with the following procedure:

1. ***Normal circumstances.*** The employee's supervisor will furnish to a higher level management official a statement of the facts on the basis of which it is concluded that the employee is unable to perform assigned duties. This statement shall be furnished prior to action to place the employee on sick leave except in emergency situations, as indicated below. The management official will obtain the advice of the personnel officer and decide whether to authorize involuntary sick leave;

2. ***Emergencies.*** Where it is not practicable for the supervisor to obtain prior approval, he/she may proceed to take the action subject to review by a higher level management official with the advice of the personnel officer. In such cases, the supervisor shall submit the statement not later than one workday following the date the employee is placed on sick leave. The personnel officer, or the designated representative, shall review the action taken and if the action is determined to have been unwarranted shall take corrective action;

3. Wherever possible, for sick leave in excess of three consecutive workdays, the leave approving official should obtain a medical certificate substantiating illness. If this is impracticable, other evidence administratively acceptable will suffice; and

4. The employee should not be placed on involuntary sick leave if it involves the advancing of sick leave unless a medical certificate or other medical evidence is furnished.

d. ***Charging sick leave.*** The regulations governing the charging of sick leave are the same as those governing the charging of annual leave.

.07 Granting Advanced Sick Leave

In cases of serious disability or ailment, when the exigencies of the situation require, employees may be granted advanced sick leave, in addition to the sick leave to their credit, regardless of whether they have annual leave to their credit. Sick leave should not be advanced to an employee who has filed application for disability, inasmuch as payment for such leave is not recoverable upon the employee's subsequent separation from the service. Advances of sick leave are subject to the following limitations:

a. Every application for granting advanced sick leave must be supported by a medical certificate signed by a physician or other practitioner;

b. The total sick leave advanced must be charged against sick leave subsequently earned. Compensatory time granted in lieu of overtime earned subsequent to the advance sick leave may not be credited toward reducing the balance of advanced sick leave owed by the employee (45 Comp. Gen. 243). In case of separation of any employee who is indebted for advanced sick leave (except in case of death, disability, or for active military service with restoration rights) recovery must be made for salary paid by: (1) deduction from any salary due the employee; (2) refund from the employee; (3) a claim filed against his/her retirement account; or (4) referral to the General Accounting Office for collection;

c. An employee may not be advanced sick leave in excess of 13 days during the probationary or trial period. Temporary employees may not be advanced sick leave in excess of the amount which they will earn during the period of temporary employment; and

d. The amount advanced to a full-time employee who has completed a probationary or trial period in the Federal Government may not exceed 30 days. Part-time employees, working under a regular tour of duty, may be advanced sick leave on a pro rata basis.

.08 Leave of Absence for Treatment of Disabled Veterans

Executive Order 5396, dated July, 1930, provides that supervisory officers must grant to a disabled veteran such annual or sick leave as may be permitted by law and such leave without pay as may be necessary to

permit him/her to receive medical treatment. The veteran must present an official statement from a medical officer of a Government hospital specifying that such treatment is necessary. However, the granting of such leave is contingent upon the veteran giving prior notice of definite days and hours of absence required for medical treatment, so that arrangements can be made for handling of work during the absence. Similarly, necessary sick leave will be granted to veterans to take physical examinations in connection with disability pensions, to have prosthetic devices fitted, and for like purposes.

.09 Sick Leave for Employees Stationed Outside the United States

The provisions of these regulations shall apply to all employees stationed outside the United States, except that an operating unit may adopt local prevailing practices with respect to granting sick leave to aliens and national employees where it is considered administratively desirable. Alien employees, however, may not be granted sick leave in excess of the amount allowable to citizen employees.

SECTION 4. TRANSFER AND RECREDIT OF ANNUAL AND SICK LEAVE

.01 Annual Leave

a. ***Transfer of annual leave***

1. The annual leave account of an employee who moves without a break in service from one position to another covered by Chapter 63 of Title 5, U.S. Code will be transferred for credit or charge to the employee in the new position.

2. When an employee moves without a break in service between positions under different leave systems, leave will be transferred on an adjusted basis (i.e., seven calendar days of leave are equivalent to five workdays of leave) as prescribed by the Office of Personnel Management.

b. ***Recredit of annual leave***

1. If an employee moves to a position under a system to which leave cannot be transferred, the untransferred leave is either:

(a) liquidated by a lump-sum payment, if appropriate as described in Section 5 of this Handbook; or

(b) held in abeyance for recredit should the employee return without a break in service of more than 52 continuous calendar weeks, to the leave system under which it was earned.

2. If an employee moves to a position under a different leave system to which only a part of his/her annual leave may be transferred, the untransferred part is held in abeyance for recredit should the employee return, without a break in service of more than 52 continuous calendar weeks, to the leave system under which it was earned.

3. If an employee has received a lump-sum payment for annual leave under Section 5 of this Handbook, and is again employed before the expiration of the period covered by the lump-sum payment in a position covered by Chapter 63 of Title 5, the employee shall refund an amount equal to the compensation covering the period between the date of reemployment and the expiration of the leave period, except that when an employee is reemployed under a leave system different from that under which the lump-sum was paid, and not all of the leave is transferrable, refund is required only up to the amount of recreditable leave (33 Comp. Gen. 209). A refund will be required even when the reemployment in a covered position is in a temporary position for less than 90 days (32 Comp. Gen. 387). If an individual is reemployed in a position not subject to Chapter 63 of Title 5, no refund is necessary, and no recredit is made (33 Comp. Gen. 709). When a refund is necessary, and no recredit is made, the leave represented by the refund shall be recredited as follows:

(a) In an amount equal to the amount represented by the refund, if reemployment is under the same leave system;

(b) On an adjusted basis if reemployment is under a different leave system than that under which the lump-sum was paid.

.02 Sick Leave

a. ***Transfer of sick leave***

1. The sick leave account of an employee who moves without a break in service from one position to another under Chapter 63 of Title 5, U.S. Code will be transferred for credit or charged to the employee in the new position.

2. When an employee moves without a break in service between positions under different leave systems, sick leave will be transferred on an adjusted basis (i.e., seven calendar days of leave are equivalent to five work days of leave) as prescribed by the Office of Personnel Management.

b. ***Recredit of sick leave***

1. An employee who is separated from the Federal government or the government of the District of Columbia is entitled to recredit of sick leave upon reemployment without a break in service of more than three

years, except as provided for intervening non-Federal service in Appalachian Regional Commissions as provided in 42 U.S.C. 3182 (see FPM Supplement 990-2, Book 630, for more details).

2. If an employee moves to a position not under a sick leave system to which sick leave may not be transferred, the employee is entitled to recredit of the untransferred sick leave should he/she return without a break in service of more than three years to the leave system under which it was earned.

3. If an employee moves to a different position under a leave system to which only part of his/her sick leave may be transferred, the untransferred leave is held in abeyance for recredit should the employee return, without a break in service of more than three years, to the leave system under which it was earned.

.03 Special Provisions for Employees on Extended Active Military Duty

a. An employee who enters on active military duty may elect to have his/her annual leave remain for recredit after restoration to duty or to receive a lump-sum payment, as described in subparagraph 5.01a of this Handbook. Such an employee may not elect to be paid for part of accumulated and accrued annual leave and to have the rest reserved for recredit upon restoration.

b. The leave account (sick or annual) of an employee who is restored to duty following military duty, or upon reemployment not more than three years after separation from the military service, will be reestablished as a credit or charge upon his/her restoration to duty in the Department in accordance with the provisions of statute, Executive Order, or regulation. When an employee elects to retain annual leave for recredit upon restoration, the amount is "frozen" regardless of the employee's leave ceiling. When the employee returns to civilian employment, the limitation on leave carry over will be applicable at the beginning of the leave year following the leave year in which the employee is restored to duty.

.04 Special Provisions for Employees Who Transfer to an International Organization

Employees serving under an appointment not limited to one year or less who transfer to an international organization with the consent of the head of the operating unit are entitled to elect to retain all accumulated and accrued annual leave to their credit at the time of the transfer which would otherwise be liquidated by a lump-sum payment. On the transferring employee's request at any time before reemployment, the employee shall be paid for any annual leave retained. Should the employee receive a lump-sum payment and be reemployed within six months after transfer, the lump-sum payment must be refunded to the agency. This provision shall not cause a forfeiture of retained annual leave following reemployment or deprive an employee of a lump-sum payment which would otherwise be paid.

SECTION 5. LUMP-SUM PAYMENT FOR ANNUAL LEAVE

Employees who are separated from the service or who elect to receive a lump-sum payment for leave upon entry on active duty in the armed forces, will be paid compensation in a lump-sum for accumulated and accrued current annual leave to their credit (5 U.S.C. 5551-5552). When an employee has to his/her credit at the time of separation or entry onto active duty in the armed services, any excess annual leave which was temporarily restored because of an exigency of the public business, illness, or administrative error, all such leave unused but still available must be included in the lump-sum payment and may not be retained to the credit of the employee. A lump-sum payment may not be made for home or shore leave (5 U.S.C. 6305).

.01 When Lump-sum Payments Will Be Made

a. When an employee is separated from the service for one or more workdays, a lump-sum payment will be made for all unused annual leave accrued through the last full pay period before separation, except that:

1. An employee who separates to enter on active duty in the armed forces may elect to have the leave remain to his/her credit until return from active duty; however, this election does not apply to restored annual leave, which must be liquidated by a lump-sum payment;

2. An employee who separates with reemployment rights to accept a position in a public international organization may elect to have the leave (other than restored leave) remain to his/her credit; and

3. If an employee is separated from another agency and is reemployed by the Department in a position under a leave system before a lump-sum payment check is issued by the separating agency, payment is made to the employee for the days *not* in the Federal service and the rest of the annual leave is transferred for credit to his/her account (34 Comp. Gen. 290).

b. An employee is entitled to a lump-sum payment for accumulated and accrued annual leave when moving without a break in service to a Federal position not

under a leave system or not under a system to which annual leave is transferrable, including the following:

1. A position as an intermittent or part-time employee with no established regular tour of duty during each administrative workweek (but see subparagraph .02d. of this section);

2. A position as a temporary construction worker at an hourly rate;

3. Employment by either House of Congress;

4. Employment with a corporation supervised by the Farm Credit Administration when any member of the corporation's board of directors is elected or appointed by a private interest;

5. An appointment without compensation; and

6. Employment on a fee basis.

c. Accumulated and accrued annual leave to the credit of an employee at the time of his/her death shall be paid in a lump-sum to the designated beneficiary or in the established order of precedence if no beneficiary is designated.

.02 When Lump-sum Payments Will Not be Made

a. A lump-sum payment may not be made to an employee who transfers without a break in service to another Federal position under this leave system or another system to which leave is transferable.

b. A lump-sum payment for annual leave may not be made when an employee transfers without a break in service to a position exempted from the leave system (i.e., Presidential appointees in the executive pay levels and comparable positions). The accumulated and accrued annual leave of such an individual is merely held in abeyance for recredit if the individual returns without a break in service to a position subject to the leave provisions, or for lump-sum liquidation if the individual later separates from the service. However, any *restored* leave will immediately be paid as a lump-sum at the time of the transfer to an excepted position.

c. An employee temporarily furloughed for lack of work or funds is not a separated employee and therefore not eligible for a lump-sum leave payment unless permanent separation occurs.

d. When a student trainee under a continuing program is changed to an intermittent tour of duty between regular full-time tours of duty, there is no separation from the service, and therefore earned leave remains to the trainee's credit for future use rather than being liquidated by a lump-sum payment.

.03 Computing Lump-sum Payments

a. The period of leave used for calculating the lump-sum payment is the total amount of accumulated, current accrued, and available restored leave at the time of separation. It is not extended because of any holiday occurring after separation. Deductions are not made from the lump-sum payment except for tax purposes or for indebtedness to the United States.

b. When a pay increase has been ordered but has not taken effect before the date of separation, that part of an employee's leave which would have extended beyond the effective date of such increase is computed at the new rate. This rule applies to such nondiscretionary pay determinations as new General Schedule pay rates periodically required by statute and the wage schedules issued under the prevailing rate pay system unless the issue date of the wage schedule is after the effective date of the increase and the employee separates before the issue date (26 Comp. Gen. 105, 214; 31 Comp. Gen. 273; 47 Comp. Gen. 773; unpublished Comp. Gen. decision B-164371, 5/28/80). However, within-grade increases are included only if the employees completed the waiting period and met all other conditions for the increase on or before the date of separation (26 Comp. Gen. 119).

c. The lump-sum payment includes premium pay which the employee would have received if he/she had remained in the service for the period covered by the leave (36 Comp. Gen. 18). An employee serving overseas where a differential or cost of living allowance is authorized is entitled to have such compensation included in the lump-sum payment if separation occurs at the overseas post, but not if separation occurs after departure from the overseas post (32 Comp. Gen. 323; Comp. Gen. 594).

d. An employee receiving a retained rate of pay is entitled to have the lump-sum payment computed on the basis of that rate, but if the retained rate is scheduled to terminate during the period covered by the lump-sum payment, the portion of the leave which would have followed the expiration of retained rate is computed at the lower rate (unpub. Comp. Gen. decision B-151640, June 4, 1963).

e. When at the time of death or other separation an employee's accrued leave exceeds the amount which could have been used without forfeiture at the end of the leave year, the lump-sum payment will nevertheless be computed to include all leave to the employee's credit (P.L. 93-181).

.04 Lump-sum Payment in Lieu of Leave

Except as otherwise provided in this section, employees covered by the provisions of this Handbook may not receive payments in lieu of taking such leave.

SECTION 6. HOME LEAVE

.01 Definitions

a. Home leave is leave authorized by 5 U.S.C. 6305 for employees stationed abroad. Home leave is for use in the United States or, if the employee's place of residence is outside the area of employment, in the Commonwealth of Puerto Rico or the territories and possessions of the United States.

b. Continuous creditable service is service which begins with the date of the employee's arrival at a post outside the United States, or on the date of his/her entrance on duty if recruited abroad, and ends on the date of departure from the post for separation or assignment in the United States. It includes (1) nonpay absence not to exceed two workweeks, (2) authorized leave with pay, (3) time spent in the Armed Forces which interrupts otherwise creditable service, and (4) periods of detail.

.02 Eligibility for Home Leave

Employees serving outside the United States who are eligible to accumulate a maximum of 45 days of annual leave are eligible for home leave benefits.

.03 Entitlement to Home Leave

Home leave may not be granted to an employee until he/she has completed twenty-four months of continuous creditable service outside the United States.

.04 Accrual and Earning Rates

Employees accrue home leave without limit in accordance with the provisions of Civil Service Regulation 630.604 set forth in Book 630, FPM Supplement 990-2. The decision that employees qualify for 15 days of home leave for each 12 months of service abroad, on the basis that they are obligated to accept assignment anywhere in the world, shall be made by appointing officers of the operating units. The employee concerned shall execute a written statement of understanding of this requirement. Civil Service Regulation 630.605(a) provides a table showing home leave earned for full months of service.

.05 Approval of Home Leave

The approval of home leave shall be at the discretion of officials authorized to approve such leave and may be approved in combination with other leaves of absence. Home leave which is not used during service abroad, or within a reasonable time after return when it is contemplated that the employee will return to service abroad immediately or upon completion of an assignment within the United States, may not be granted until he/she has completed a further period of service abroad of not less than the tour prescribed for the post of assignment. However, an earlier grant of home leave may be approved, as warranted by unusual individual circumstances.

.06 Refund for Home Leave

A refund of home leave is required when the employee fails to return to service abroad unless he/she has completed not less than six months of service in an assignment in the United States following the period of leave. A refund will not be required where the personnel officer determines that (a) the employee's failure to return is due to compelling personal reasons of health or those over which he/she had no control or (b) it is in the public interest not to return the employee to an overseas assignment.

.07 Transfer and Recredit of Home Leave

Accrued home leave shall be transferred or recredited to the leave account of an employee who moves between agencies or is reemployed in the Federal service without a break in service in excess of 90 days.

SECTION 7. ABSENCE WITHOUT PAY

.01 Definitions

a. ***Leave without pay*** (LWOP) is an approved temporary absence from duty in a nonpay status requested by an employee. The term does not cover a suspension, or furlough, or nonpay status during hours or days for which an employee would be compensated on an overtime basis.

b. ***Extended LWOP*** is a period exceeding 30 calendar days' duration.

c. ***Absence without official leave (AWOL)*** is a period of absence without pay for which the employee did not obtain advance approval or for which a request for leave is denied. AWOL is based on the supervisor's determination that no form of leave (sick, annual, or LWOP) has been or should be approved for the absence.

.02 Policy on Granting LWOP

a. The authorization of LWOP is a matter of administrative discretion and may not be demanded by an

employee, except that (1) disabled veterans are entitled to LWOP for medical treatment, and (2) members of the armed forces reserves and National Guard are entitled to LWOP when ordered to military training duties if the absence is not covered by military leave.

b. The minimum charge for LWOP is one hour and multiples thereof.

c. LWOP will not ordinarily be granted to enable an employee to engage in other employment. However, employees may be granted LWOP where there is a temporarily reduced need for their services and it is expected that they will return to duty.

d. Each request for extended LWOP should be examined closely to assure that the value to the Government or serious needs of the employee are sufficient to offset the costs and administrative inconveniences involved, including: encumbrance of a position, loss of needed services, complication of retention registers for reduction in force, obligation to provide employment at the end of the period of leave, and full credit for six months of each year of absence toward retirement. As a basic condition for approval of extended LWOP, there should be reasonable expectation that the employee will return at the end of the approved absence. In addition, it should be apparent that at least one of the following benefits would result: (1) increased ability on the job, (2) protection or improvement of the employee's health, (3) retention of a desirable employee, or (4) furtherance of a program of interest to the Government.

e. An employee requesting LWOP may be required to exhaust annual leave when the absence is primarily for the personal convenience of the employee.

f. Generally, LWOP may not be substituted retroactively for annual or sick leave (see 58 Comp. Gen. 661).

g. An employee in a pay status either the day before or the day after a holiday is entitled to regular pay for the holiday whether in an authorized leave without pay status or absent without authorized leave (unpublished Comptroller General decision, B-127474, 3/2/77).

h. Since it is a requested and approved absence, LWOP may not be used as a disciplinary measure.

.03 Approval of Applications for LWOP

Applications for LWOP for 30 calendar days or less should be made on SF-71, "Application for Leave." However, time and attendance reports will govern the exact dates of LWOP. For LWOP in excess of 30 calendar days, or requests for extension of LWOP which in total would exceed 30 calendar days, the employing office will obtain from the employee: (1) SF-71, (2) a statement explaining the request, and (3) if the request is made for health reasons, a statement from the physician or other practitioner indicating the need for the absence and the prognosis of the employee's ability to return to work at the end of the period of LWOP. An employee's absence on extended LWOP and subsequent return to duty must be recorded in the Official Personnel Folder; the employing office must initiate an SF-52, "Request for Personnel Action," for each instance. In addition to this requirement for extended LWOP, an employing office must prepare an SF-52 in any instance where the total amount of LWOP and AWOL (not including periods of furlough or suspension) taken during a calendar year exceeds six months and has not been reported previously.

.04 Extended LWOP

The maximum initial period for which LWOP may be authorized is 12 months, except as noted in the examples below. A renewal request should be scrutinized even more carefully than the original request. The following are some examples of situations which ordinarily would warrant a grant of extended LWOP:

a. For educational purposes. The employee's request must contain information concerning the course of study, the manner in which the studies may enhance the employee's value to the Department, and the employee's intention to return;

b. For service with a non-Federal public or private enterprise when (1) the job is of a temporary character (not to exceed one year), (2) the employee is expected to return, and (3) the service to be performed is in the interests of the Department;

c. For the furtherance of a program of official interest to the Government (e.g., volunteer service in the Peace Corps or VISTA; participation in the President's Executive Exchange Program; assignments under the Intergovernmental Personnel Act; international competition as a member of the U.S. Olympic team; etc.); the initial grant may exceed one year, as required by the program;

d. For recovery from illness or disability not of a permanent nature, when continued employment or immediate return to employment might impair the employee's health or the health of other employees;

e. For protection of an employee's status during any period (1) pending final action by the Office of Personnel Management on a claim for disability retirement, after sick and annual leave have been exhausted, or (2) pending a determination by the Department of Labor on a claim for disability compensation resulting from employment-connected injury or disease. If the disability or disease is one for which the employee is being compensated by the Department of Labor under 5 U.S.C. Chapter 81, LWOP in excess of one year may be granted in increments appropriate to the employee's prospects for recovery; and

f. For protection of an employee's status and benefits for a limited period (e.g., 90 days) when the employee is relocating to accompany a spouse in the Government service and the employee has reasonable hope of obtaining another civil service position within the agreed period of time.

.05 Absence Without Official Leave (AWOL)

a. When a supervisor determines that an employee's absence from duty should not be charged as approved leave, the employee's forfeiture of pay for the period of absence is not a disciplinary action, because the decision to be absent rests with the employee rather than with the supervisor. However, such periods of absence may be the basis for disciplinary action. (Disciplinary actions must be taken in accordance with the regulations and Department policies set forth in DAO 202-751 "Discipline," and DAO 202-752, "Adverse Actions.")

b. An employee absent without leave on the workday immediately preceding and the workday immediately following a holiday will not be paid for the holiday (see 16 Comp. Gen. 807 and 23 Comp. Gen. 960).

.06 Enforced LWOP

When the use of enforced leave is appropriate as described in sections 2.08 and 3.06c of this Handbook, enforced LWOP may be used in lieu of enforced annual or sick leave when these are exhausted or when the operating unit elects to honor the employee's expressed preference for LWOP. Enforced LWOP may be used also in the case of agency-initiated retirement for disability.

SECTION 8. ABSENCE FOR MATERNITY AND PATERNITY REASONS

.01 Policy

In view of the interrelationship between personal life and job performance, an employee's maternal or paternal responsibility can be a valid consideration in weighing leave requests. It is the Department's policy to encourage leave approving officials to weigh carefully the needs and responsibilities of the expectant parents or the parents of newborns, and to balance those needs against the essential work requirements of their organizations.

The law and regulations do not recognize a separate leave category for absences for maternity or paternity reasons. Absences for such reasons are charged to annual leave, sick leave, or leave without pay. Accordingly, this section supplements, but does not supersede, those sections of this Handbook pertaining to the type of leave applied to such absences.

.02 Employee Responsibilities

a. Employees who expect to use leave for maternity or paternity reasons should report their intention to request such leave and should indicate the approximate dates of such leave. This report should be made sufficiently in advance to enable the supervisor to make workload adjustments.

b. When there is a question about a pregnant employee's physical ability to perform her job, the employee should provide to her supervisor a written statement from a physician (or other medical authority) with respect to any job-related restrictions medically recommended.

c. When an employee plans not to return to work after an absence for maternity leave, she should offer her resignation to be effective upon expiration of her sick leave.

.03 Employer Responsibilities

a. The employing organization is responsible for providing gainful employment, utilizing fully a pregnant employee's skills when she is working, and giving reasonable consideration to requests for maternity or paternity leave.

b. If an employee submits a request, supported by a medical statement, for a temporary modification of her duties or a temporary reassignment for health reasons, the employing organization shall make a reasonable effort to grant the request.

c. When an employee returns to work after approved maternity leave, the employing organization is obligated to return her to her former position or to a like position with no loss in pay. This obligation does not apply if termination is otherwise required, such as in cases of expiration of appointment, reduction in force, separation for cause, or other reasons unrelated to her absence on maternity leave.

.04 Rest Periods

When recommended by medical authority, recurring but brief absence for rest during the employee's tour of duty for reasons relating to pregnancy may be treated as excused absences. Such rest periods typically will be spent in a health unit or comparable place.

.05 Types of Leave

a. ***Sick Leave.*** Any portion of an employee's approved absence for maternity reasons may be charged to sick leave when supported by a statement from a physician or other medical authority. Advanced sick leave may be granted in accordance with paragraph 3.06 of this Handbook if there is reasonable assurance that the employee will return to duty. Under no circumstances may sick leave be approved for paternity reasons.

b. ***Annual leave.*** Any portion of an employee's approved absence under this section may be charged to annual leave, including absence to care for the newborn or the mother, or a newly adopted child.

c. ***Other leave.*** Approved absences under this section also may be charged to accrued compensatory time, shore leave, or leave without pay.

.06 Temporary Employees

A temporary employee may be granted leave under this section. However, advanced annual or sick leave must not be granted in excess of the amount the employee will earn during the temporary employment.

SECTION 9. MILITARY LEAVE

.01 Definitions

a. ***Military leave*** is approved absence with pay from official duty authorized for those employees who are members of the National Guard or reserve components of the Armed Forces, on days on which they are on active duty or are engaged in field or coast defense training under 32 U.S.C. 502-505 and 5 U.S.C. 6323.

b. ***Military duty*** is any period of (1) active duty for training or for service in the Armed Forces of the United States, or (2) inactive duty training in the Armed Forces of the United States. Military duty also covers full-time training or other full-time duty performed by a member of the National Guard under 32 U.S.C. 316, 503, 504, and 505, and inactive duty training performed by a member of the National Guard under 32 U.S.C. 502 or 37 U.S.C. 206 or 1202.

c. ***Leave of absence for military duty*** shall mean military leave, annual leave, leave without pay, or any combination of these, depending on the circumstances and nature of the military duty. Reservists and Members of the National Guards are entitled to leave without pay if necessary, to perform military training duties.

.02 Eligibility for Military Leave

Both full-time employees and part-time career employees (as defined in 5 U.S.C. 3401(2), 16-32 hour tour per week) with permanent, TAPER, or term appointments, or temporary appointments of one year or more, are entitled to military leave, if otherwise eligible. Employees with temporary appointments of less than one year, with temporary appointments not to exceed one year, or with intermittent work schedules are not entitled to military leave.

.03 Types of Military Duty

a. Military leave will be granted in connection with military duty in specified organizations as described in the chart on the following page.

b. Employees are not eligible for military leave for the following types of military duty:

1. Summer training as members of Reserve Officers Training Corps, when employees must be carried in leave-without-pay status (35 Comp. Gen. 531).

2. Temporary Coast Guard Reserve (23 Comp. Gen. 916).

3. Participation in parades by members of the State National Guard. (However, by specific statute, members of the District of Columbia National Guard are entitled to military leave for participating in parades. (Section 49, Act of March 1, 1889, 25 Stat. 779))

4. Training with a State defense organization or a State military organization which is not a part of the National Guard, or any other organization created by the State in the absence of the State National Guard during an emergency (23 Comp. Gen. 92).

5. Weekly drills and meetings as members of D.C. National Guard (32 Comp. Gen. 363).

6. Civil Air Patrol - established as a civilian auxiliary of the United States Air Force (Act of May 1948, 62 Stat. 274).

7. Time taken on a workday to travel to the place where the training is to begin unless military training orders encompass the period of travel time required (see unpub. Comp. Gen. dec. B-138990, April 22. 1959).

8. Active duty as a commissioned officer in the Reserve Corps of the U.S. Public Health Service (41 Comp. Gen. 478, B-147276, January 29, 1962).

.04 Mandatory Approval of Leave Requests for Military Service

When an employee has followed leave procedures and provided acceptable evidence, approval of leave requests for military service may be mandatory. An employee who is a member of a Reserve component or the National Guard (other than an intermittent employee or a temporary employee appointed for less than one year (54 Comp. Gen. 999) shall, upon request, be granted military leave to which he/she is entitled for performance of active duty or active duty for training (5 U.S.C. 6323). If a full or part-time employee (other than a temporary appointee) who is a reservist or National Guardsmember

Organization	Type of Duty	Amount of Leave
National Guard of District of Columbia only*	Parade or encampment ordered under the provisions of title 39 of the D.C. Code	All days of any such parade or encampment
	Weekly drills (in active duty status)	None (32 Comptroller General 363)
National Guard of the United States*, including National Guard of the District of Columbia	Field or coast defense training at encampments, maneuvers, outdoor target practice, or other exercises	All days employee is engaged in duty up to the limit of an employee's accrued and accumulated military leave**

Note: A member of the National Guard ordered to attend an Army National Guard service school, under authority of 32 U.S.C. 505, is considered as on "active military duty" for training in the Armed Forces (38 Comp. Gen. 237).

The Army Reserve, The Naval Reserve, The Marine Corps Reserve, The Air Force Reserve, The Coast Guard Reserve	Active duty to which employee is ordered by appropriate military authority, which shall include duty on the active list, full-time training duty, annual training duty, and attendance while in the active military service at a school designated as a service school by law or by the Secretary of the military department concerned	All days employee is engaged in such duty up to the limit of an employee's accrued and accumulated military leave**

* Army National Guard and the Air National Guard
** See Section 9.05 Below

is not entitled to, does not request, or has exhausted his/her military leave, he/she shall be granted annual leave or leave without pay, as requested, for performance of active or inactive duty (38 U.S.C. 2024(d)), except that if the reservist or National Guardsmember is ordered to an initial period of active duty for training of not less than three consecutive months (38 U.S.C. 2024(c)), the operating unit has the option of granting annual leave or leave without pay, as requested, or of separating or furloughing the employee (5 CFR 353.104). However, if any employee (except a temporary employee) is to continue on active duty for an extended period (usually more than one year) (38 U.S.C. 2021 or 2024(a) or (b)), he/she, after exhausting any requested military leave to which entitled, shall be separated or furloughed (5 CFR 353.104) since the employee's entitlements, if eligible for restoration, will be the same as if continued in a leave status. A temporary employee (appointed for less than one year) may be granted annual leave or leave without pay for performance of active or inactive duty. An explanation of the applicable provisions of title 38 may be found in FPM Chapter 353.

.05 Requesting Adjustments to Military Orders

In cases where absence of employees in connection with military activities threatens to deplete the staff of a Department office to a point where it will be extremely difficult or impossible to operate, the head of the work unit concerned should discuss with the appropriate military authorities the possibility of having a sufficient number of employees excused to continue adequate operation of the work unit affected. If this matter cannot be settled at the local level, it should be referred to the head of the operating unit for further action.

.06 Computation of Military Leave

Military leave will be computed on a calendar-day basis, except that nonworkdays at the beginning or end of the period of leave will not be charged to military leave. For example, an employee absent on military leave from Monday of one week through Friday of the following week would be charged military leave for the intervening Saturday and Sunday, but not the Saturday and Sunday immediately preceding and after the period of military duty (27 Comp. Gen. 245). An employee is entitled to military leave for each tour (absence from his/her civilian position) of military duty if otherwise eligible up to the limit of the employee's accrued and accumulated military leave for that fiscal year. Military leave accrues for a full-time employee at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year; for part-time employees

with a fixed tour of duty leave accrues on a prorated basis. The determination as to when military leave will be granted in cases where military duty is in excess of an individual's accrued and accumulated leave will be made by those officials of the primary organizational unit designated to approve leave.

.07 Conversion of Annual Leave or Leave Without Pay to Military Leave

a. ***Conversion of annual leave to military leave***

Whenever an employee absent on annual leave is ordered to military training duty, he/she is entitled to have the annual leave converted to military leave for the appropriate period.

b. ***Conversion of leave without pay to military leave.***

An employee ordered to military duty while on extended leave without pay may not have the leave without pay converted to military leave. However, an employee's eligibility for military leave is not affected if he/she is granted leave without pay for a period immediately before or after military duty for the purpose of attending to personal matters (37 Comp. Gen. 608).

.08 Evidence of Duty Performed while on Military Leave

An employee granted military leave will be required to furnish a copy of his/her military orders, properly endorsed to show duty performed, or other official evidence of duty performed.

.09 Exemption from Dual Compensation Restrictions

Employees absent on military leave are entitled to receive their regular civilian pay and the pay and allowances to which they may be entitled during a period of active duty as a member of a reserve component of the Armed Forces or the National Guard (5 U.S.C. 6323 (a)). However, employees absent on military duty to enforce the law (as provided by 5 U.S.C. 6323(b)) will have their civilian pay diminished by the amount of pay received for military duty during their absence (5 U.S.C. 5519).

.10 Return to Civilian Employment

An employee's eligibility for military leave is not dependent on return to duty in his/her civilian position (37 Comp. Gen. 608).

.11 Pay Status During Period of Military Leave

An employee absent on an overtime day on which he/she is regularly scheduled to work is entitled to overtime compensation for that day, provided he/she has been in a pay status for 40 hours of the basic workweek (27 Comp. Gen. 353; 31 Comp. Gen. 173). An employee is entitled to night differential pay during a period of military leave which would be payable to him/her in a duty status (unpublished decision of the Comptroller General, B-113457, February 5, 1953).

.12 Absence for Draft Registration or Physical Examination

Employees will be excused from duty without charge to leave or loss of pay for time spent in registering for military duty pursuant to statutory requirement. The excused time for this purpose shall not exceed one day, including travel time. Time off may be granted employees for the purpose of taking a physical examination incidental to entry into the armed services or in connection with membership in reserve components of the Armed Forces or the National Guard. If the absence extends beyond one workday, the employee will be required to submit a statement showing the necessity for such additional absence. If through choice on the part of an employee, he/she is ordered to report to other than the nearest induction station and is absent from duty more than one day, the absence in excess of one day will be charged to annual leave or leave without pay.

.13 Extended Absence for Military Duty

Military leave is authorized only in the amounts and for duty in the organizations shown in Section 9.03. An employee who resigns to enter on active military duty is not entitled to military leave (37 Comp. Gen. 612). Upon request, a Reservist or a National Guardsmember shall be granted leave without pay for participation in military training activities. An employee who is a Reservist or a National Guardsmember may be carried on the rolls in an annual leave status and receive military pay at the same time. However, if an employee requests annual leave which extends into the next leave year, the maximum leave accumulation provisions (see Section 2.04) are applicable. Employees who are neither Reservists nor National Guard members cannot be carried on the rolls in an annual leave status and receive military pay for the same period (41 Comp. Gen. 320).

SECTION 10. COURT LEAVE

.01 Definitions

a. ***Court leave*** is leave, without loss of, or reduction in, pay or leave to which otherwise entitled during a period of absence with respect to which an employee is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve (1) as a juror or (2) as a witness in a nonofficial capacity on behalf of any party (other than the United States or the District of Columbia) in connection with any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party. The table immediately following this section summarizes the conditions that apply to the various types of court-related services.

b. ***A witness*** is a person who appears before a court or other public body to testify or to produce evidence.

c. ***Summoned*** does not connote any necessity for a subpoena, but does intend that the summons be an official request, invitation, or call, evidenced by an official writing from the court or authority responsible for the conduct of the proceeding, thus ruling out strictly voluntary appearances from court leave coverage.

d. ***Judicial proceeding*** means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

.02 Jury Service

a. ***Policy.***

1. The Department, as an employer, shall not request that an employee be excused from jury service or be granted a deferment from jury service, except in cases of genuine emergency. Excuse from jury service shall not be requested when a deferment will satisfy the operating requirements of the Department.

2. In cases of genuine necessity, the head of the employing operating unit, or his/her designee, may write directly to the court requesting that the employee be excused from jury service, or that the service be deferred.

b. ***Employee eligibility.*** Both permanent and temporary employees, both full-time and part-time, (except those employed on a substitute, when-actually-employed (WAE), or intermittent basis without a regular tour of duty), are entitled to court leave for jury service.

1. A permanent or temporary part-time employee with a regular tour of duty who is called for jury service during his/her tour of duty is entitled to court leave (36 Comp. Gen. 378; 49 *id.* 287).

2. An employee serving under a temporary appointment is eligible for court leave (48 Comp. Gen. 630).

3. WAE and intermittent employees without a regular tour of duty are not eligible for court leave. However, an employee appointed on a WAE or intermittent basis, who has a regularly scheduled tour of duty, may be granted court leave for jury duty performed during his/her tour of duty, where the employment covers a protracted period under a continuing, established work schedule (B-166056, August 12, 1970).

4. A night-shift employee who performs jury service during the day is eligible for court leave for his/her regularly scheduled night tour of duty.

5. An employee who performs duty for a full workday and then sits on a grand jury in the evening, may be granted court leave on the following day to the extent necessary to relieve hardship (B-70371, August 5, 1975).

c. ***Administration of court leave for jury service***

1. An employee eligible for court leave shall be granted court leave to serve on a jury for the entire period of such service, extending from the date on which he/she is required to report to the time of discharge by the court, regardless of the number of hours per day or the days per week actually served on a jury during the period (20 Comp. Gen. 131, 181).

2. Court leave may not be granted for jury service for periods when an employee is excused or discharged by the court, either for an indefinite period subject to call by the court or for a definite period in excess of one day (20 Comp. Gen. 181; 26 *id.* 413). Court leave may not be granted on account of jury service for periods of one day or a substantial portion of a day within the term of service when the employee is excused by the court, unless the return of the juror to duty for that period would involve a hardship, such as loss of sleep or excessive travel (46 Comp. Gen. 413).

3. If an employee on court leave for jury duty outside the commuting area is excused for an indefinite period or discharged by the court, the travel time necessary for return to duty will be considered as court leave. Similarly, an employee excused by the court for definite short periods of time will be continued on court leave where the expense involved in travel would make it impractical for the employee to return for duty during such periods.

4. Since it is mandated by statute that the compensation of an employee shall not be diminished by reason of jury service, employees granted court leave for jury service are entitled to the same compensation they would otherwise have received, including premium pay, overtime, and night differential (31 Comp. Gen. 173; 29 *id.* 427; 54 *id.* 147; 23 *id.* 904).

5. If an employee is on annual leave when called for jury service, court leave should be substituted (27 Comp. Gen. 83). An employee on annual leave under advance notice of separation due to a reduction in force, and who is summoned as a juror, is entitled to have otherwise proper court leave substituted for annual leave but not to extend beyond the date administratively fixed for separation (27 Comp. Gen. 414). Annual leave may not be used by an employee eligible for court leave for periods of absence due to jury duty, regardless of the employee's or the organization's preference, since such use would result in the reduction of accumulated leave, which is prohibited by statute (B-119969, March 11, 1969).

6. An employee on leave without pay, although otherwise eligible, may not be granted court leave when called to jury duty. Court leave is available only to an employee who, except for jury duty, would be on duty or on leave with pay (27 Comp. Gen. 83).

7. Employees such as WAE and intermittent employees without a regular work schedule, who are not entitled to court leave for jury service, may be granted any annual leave to which they are otherwise entitled, or may be granted leave without pay, for any absence from duty for jury service (27 Comp. Gen. 54).

8. Employees whose regular tour of duty includes Saturdays, Sundays, or both, and who serve on a jury for five weekdays, may be granted court leave and paid premium pay for the weekend days which are a part of their regular tour of duty (54 Comp. Gen. 147).

9. An employee granted court leave will be required, upon return to duty to show his/her supervisor the order or subpoena which required attendance in court, and to submit a certificate of attendance in court, signed by a clerk of the court or other appropriate official.

d. ***Jury fees.***

1. An employee whose compensation and leave are protected by statute from diminishment on account of jury service, is prohibited from receiving compensation for such service in any court of the United States for any periods of jury service for which the protections of the law apply.

(a) The prohibition of 5 U.S.C. 5537 against employees eligible for court leave receiving compensation for jury service in a United States court does not preclude allowing such employees mileage payments, meals, and lodging in kind authorized by law for jurors, in addition to their regular compensation as employees of the United States, but does preclude payment of the per diem allowance for each day's attendance in courts and for travel time prescribed by 28 U.S.C. 1871 (20 Comp. Gen. 145).

(b) An employee who is not eligible for court leave, such as an intermittent, WAE, or substitute employee may receive and retain compensation for jury service in Federal as well as state and local courts, including the per diem allowance for each day's attendance in court, even if on annual leave (27 Comp. Gen. 54).

(c) An employee who is in a nonpay status immediately before and during a period of jury service in a Federal court may be paid the per diem allowance for each day's attendance in court and for the time necessarily occupied in going to and from court (20 Comp. Gen. 276).

(d) An employee who performs jury service in a Federal, state, or local court, on a nonworkday outside his/her regular tour of duty, for which Federal salary is not paid, or on a holiday within the employee's basic tour of duty, is entitled to receive and retain fees for such service (37 Comp. Gen. 695; 27 *id.* 293; 45 *id.* 251).

(e) An employee who performs jury duty in a Federal court outside of work hours so that no court leave is involved is entitled to receive and retain jury fees (36 Comp. Gen. 378). However, an employee who sits on a grand jury in the evening following a full day's work and who is granted court leave the following day to relieve any hardship, is entitled only to retention of a pro rata portion of the grand jury fee to the extent that hours of actual service exceeds hours of court leave granted (B-70371, August 5, 1975).

(f) When jury service overlaps normal work hours, for each hour of jury service performed in a court of the United States or the District of Columbia, outside of the hours of duty an employee otherwise worked, or, but for jury service, would have been required to work on a given day, the employee is entitled to a proportionate part of the jury fee for that day (53 Comp. Gen. 407). Any jury service fee payable to employees whose period of jury service in Federal court overlaps in part their normal workday shall be based on the statutory jury service fee, prorated over a standard eight-hour workday; i.e., one-eighth of the statutory fee for each hour of jury service outside of the hours the employee worked or would have worked but for jury service. If a presiding judge at his/her own discretion authorizes a retroactive increase in jury fees for jurors in cases extending beyond 30 day's duration, the actual fee so paid will be the basis for computing the employee's entitlement to compensation. In computing the excess hours of jury service over the number of employee's working hours in a day, fractional hours shall be rounded off, one-half hour or more being considered one hour. When the end of an employee's working day coincides with the beginning of jury service, there is no necessity to prorate the fee. Any travel time between the duty station and the court is considered court leave (55 Comp. Gen. 1264).

2. Jury fees received by an employee for jury service in a state or local court during a period of time for which the employee is entitled to court leave must be credited against the amount of compensation payable to the employee by the Department. An employee called to jury

service in a state or local court should be instructed to collect the usual fees paid to jurors (43 Comp. Gen. 672). The employee must forward the fees collected to the accounting officer of the operating unit; otherwise, payroll deduction will be made in that amount (20 Comp. Gen. 279). A jury duty certificate signed by the clerk of the court should be retained by the employee in support of a refund of jury fees or payroll deduction. Data required to be shown on payrolls or vouchers are set forth in 20 Comp. Gen. 279.

(a) An employee not entitled to court leave for a period of jury service in a state or local court for which a fee is received, may retain the fee without refunding it to the Department or having it deducted from compensation. Accordingly, fees obtained for jury service on nonworkdays, holidays, periods of leave without pay, or a portion of a day where the hours of jury service do not conflict with an employee's scheduled tour of duty and the employee worked the entire tour of duty, may be retained in their entirety by the employee (24 Comp. Gen. 450; 26 *id.* 888; 27 *id.* 293; 36 *id.* 378; 37 *id.* 695).

(b) When jury service overlaps normal work hours, for each hour of jury service in a state or local court, outside of the hours of duty an employee worked or, but for jury service, would have been required to work on a given day, the employee is entitled to retain a proportionate part of the jury fee for that day (55 Comp. Gen. 1266). The amount of jury fees retainable by an employee whose period of jury service extends beyond the end of a normal workday should be computed by dividing the total jury service fee by eight to arrive at an hourly rate. This rate times the number of hours beyond the end of the employee's workday equals the amount retainable. In computing the excess hours of jury service over number of employee working hours in a day, fractional hours should be rounded off, one-half hour or more being considered one hour (55 Comp. Gen. 1266).

(c) The amount collected or deducted by the payroll office on account of jury fees received by an employee for jury service in a state or local court during a period of absence on court leave, may not exceed the amount the employee would otherwise have been paid for the period of absence (20 Comp. Gen. 209). The employee is permitted to keep any excess of the jury fee over the amount of compensation due to him/her (29 Comp. Gen. 302).

(d) Employees who serve on state or local juries while on court leave and who waive or refuse to accept the authorized jury fees, are required to have their salaries reduced by the amount of the authorized fees (43 Comp. Gen. 672).

(e) An employee who serves as a juror in a state or local court while on court leave is not required to remit to the Department that part of the compensation received from the state to cover travel expenses where it is clear that a specific amount is received for travel expenses rather than for juror fees (52 Comp. Gen. 325). Absent evidence that a specific amount is intended as reimbursement for transportation expenses, the amount received as jury fee must be credited against compensation payable (B-176863, October 4, 1972; B-192043, August 11, 1978; 29 Comp. Gen. 427).

(f) Where a state provides jurors reimbursement of expenses at a fixed or varying rate, such monies are not considered jury fees, and may be retained by employees as an expense allowance (B-183711, October 21, 1975; B-183711, August 23, 1977). Where employees have inappropriately turned in expense money received from state courts, they are entitled to refunds from the appropriations into which such monies were deposited (B-183711, October 6, 1976).

(g) An employee who is paid jury fees for periods of recess from a state or local court, and who returns to and performs the regular duties of his/her position, may retain the jury fees received for the period of time that he/she was on duty, without refund or deduction (B-170497, September 9, 1970).

.03 Witnesses

a. ***Employee eligibility.*** Both permanent and temporary employees, both full-time and part-time, except those employed on a substitute, WAE, or intermittent basis, without a regular tour of duty, are entitled to court leave to serve as a witness in a nonofficial capacity on behalf of any party (other than the United States or the District of Columbia) in connection with any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party.

b. ***Employee-plaintiffs.*** When an employee-plaintiff has been deposed (called to give a deposition although he/she may not have received an actual summons), or is otherwise summoned to testify in a case in which a party in the proceeding is the United States, the District of Columbia, or a state or local government, the employee-plaintiff is a "witness" within the meaning of the statute and is entitled to court leave for the time involved in giving a deposition or witnessing (not to include time testifying in his/her own behalf). The time the employee-plaintiff spends testifying in his/her behalf does not meet the requirement of having been "summoned" within the meaning of section 6322 of Title 5, U.S.C., and a grant of court leave for that time is not appropriate.

If the employee is a party in a suit against the Government, the time the employee-plaintiff spends in preparation for the trial, including answering the government's interrogatories, and the time the employee-plaintiff spends observing the conduct of the trial is not included within the word "witness" and does not qualify for court leave. Annual leave or leave without pay is appropriate for such periods.

c. ***Official duty.***

1. An employee is performing official duty during the period with respect to which he/she is summoned, or assigned by the Department, to (a) testify or produce official records on behalf of the United States or the District of Columbia, or (b) testify in his/her official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

2. An employee is considered to be a witness in an official capacity when called as a witness in the official capacity of a former position held in the Federal services, as well as of the current positions (B-160343, November 22, 1966).

3. When an employee performs witness service as part of official duty, he/she is entitled to regular compensation without regard to any entitlement to court leave.

4. When the employee is a plaintiff against a Federal agency in a civil action which is related to, or caused by, a violation of the Civil Rights Act of 1964, and the employee-plaintiff prevails in the civil action, the employee should not be charged with leave, but is entitled to official time for the period of attendance in court. If the employee does not prevail in such a civil rights action, the related absences should be charged to the appropriate leave category. Of course, the final determination as to whether the absence of an employee-plaintiff in a civil rights action can be treated as official duty cannot be made until the conclusion of the court action. Until then, the absence should tentatively be recorded as leave.

d. ***Other than official duty.***

1. An employee is entitled to court leave during a period of time with respect to which he/she is summoned to testify in a nonofficial capacity (a) on behalf of a state or local government or (b) on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a state or local government is a party.

2. An employee summoned to provide testimony in a nonofficial capacity in a proceeding to which neither the United States, the District of Columbia, nor a state or local government is a party, is not eligible for court leave. Absence in connection with such witness service should be recorded as annual leave or leave without pay.

3. An employee who is not summoned as a witness but who appears before the court voluntarily and requests to testify is not entitled to court leave or to payment of any travel expenses, mileage, or other fees (9 Comp. Gen. 255). Absence from duty should be charged to annual leave or leave without pay.

e. ***Overtime.*** An employee who performs witness service in an official duty status on days for which he/she would have been entitled to receive overtime compensation except for the witness service is entitled to receive any overtime compensation that would have been paid (38 Comp. Gen. 142; 37 *id.* 1).

f. ***Fees.***

1. An employee who testifies on behalf of the United States or the government of the District of Columbia is not paid witness fees, except that an employee on leave without pay for the entire period of witness service on behalf of the Federal government may accept and retain witness fees (10 Comp. Gen. 329).

2. An employee who serves as a witness on official duty or on court leave other than on behalf of the United States or the District of Columbia, is required to collect the authorized witness fees and allowances for expenses of travel and subsistence (5 U.S.C. 5015, 5537, 5751). All amounts so collected should be credited to compensation payable to the employee by the Department, except that travel and subsistence expenses (not to exceed actual expenses) may be retained by the employee if not paid by the operating unit (15 Comp. Gen. 196; 23 *id.* 628).

3. If an employee testifies in a nonofficial capacity on behalf of a private party in a proceeding to which the United States or the District of Columbia is not a party, the employee is entitled to the usual fees and expenses related to such service.

g. ***Travel expenses.*** An employee who appears as a witness when such service is part of his/her official duty is entitled to travel expenses. Payments shall be at rates and in amounts allowable for other purposes under law (5 U.S.C. 5701 - 5708) and regulation, except to the extent that travel expenses are paid to the employee by the court, authority, or party which caused him/her to be summoned as a witness on behalf of a party other than the United States.

EMPLOYEE ABSENCES FOR COURT OR COURT-RELATED SERVICES

Nature of service	Type of Absence			Fees			Government travel expenses	
					Yes			
	Court leave	Official duty	Annual leave or LWOP	No	Retain	Turn in to agency	No	Yes*
I Jury Service:								
(A) U.S.or D.C. court	X			X			X	
(B) State or local court	X					X	X	
II Witness Service:								
(A) On behalf of U.S. or D.C. government		X		X				X
(B) On behalf of State or local government								
(1) in official capacity		X				X		X
(2) not inofficial capacity	X					X	X	
(C) On behalf of private party								
(1) in official capacity		X				X		X
(2) not in official capacity								
(a) when a party is U.S., D.C., or State or local government	X					X	X	
(b) when a party is not U.S., D.C., or State or local government			X		X		X	

*Offset to the extent paid by court, authority, or party which caused the employee to be summoned.

SECTION 11. EXCUSED ABSENCES

.01 Definition

An excused absence is an absence from duty without loss of pay and without charge to the employee's leave account. It is synonymous with the term "administrative leave" and is distinct from absence for officially sanctioned purposes from the employee's usual worksite or regular duties. The distinction is that an employee, while on excused absence, is not acting within the employer-employee relationship and is not deemed to be subject to the control or responsibility of the Department as an employer. Employees who are performing certain representational functions or are conducting the business of organizations recognized by the agency (e.g., credit unions, welfare and recreation associations, or the Combined Federal Campaign) generally are considered to be acting within the employer-employee relationship.

.02 Authorization for Excused Absence

a. In individual cases, the provisions of this Handbook permit a leave-approving official to grant administrative leave subject to any restrictions imposed by the operating unit.

b. Each operating unit shall prescribe procedures for the approval of administrative leave for groups of employees.

c. When excused absence for less than one whole workday is administratively granted, (e.g., for early dismissal because of weather conditions, for viewing parades, to welcome visiting dignitaries, and for similar reasons), and the period of excused absence is preceded and/or followed by official worktime, the employee must be in active duty status for any worktime contiguous to the period of excused absence in order to receive the benefit of the excused time, except as provided in subparagraph .15 a.1.(c) of this section. Where an employee is on annual or sick leave on a day on which employees are excused for less than the whole workday, a deduction will not be made from the leave charge for that day.

.03 Tardiness and Brief Absence

Tardiness and other brief absences from duty for less than one hour may be handled administratively in any of the following ways: (1) by excusing employees for adequate reasons; (2) by requiring additional work equivalent to the period of absence or tardiness; (3) by charge (in units of one hour) against any compensatory time which the employee may have to his/her credit; (4) by charge (in units of one hour) against annual leave; (5) by placement on leave without pay; or (6) by recording the absence as absence without leave. Participation in

civic, patriotic, or community activities which are infrequent and of limited duration, such as viewing a parade, welcoming visiting dignitaries, dedication ceremonies, and emergency actions to save life or property, are ordinarily adequate justification for excusing an employee's brief absence.

.04 State and Local Holidays

Field installations may be closed on state, local, territorial, or foreign holidays upon a determination by a designated operating unit official that Federal work may not properly be performed. Any of the following circumstances may be determined to prevent work from being properly performed:

a. The building or office in which employees work is closed, or building services essential to proper performance of work are not available;

b. Local transportation services are discontinued or interrupted to the point where employees are prevented from reporting to their work location; or

c. The duties of the employees consist largely or entirely of dealing directly with employees and officials of business, industry, or local government, and most of such establishments are closed in observance of the holiday, and there are no other appropriate duties to which employees can be assigned on the holiday.

When a field office is closed in accordance with the provisions of this paragraph, the holiday is a nonworkday, and no charge will be made for the day, regardless of an employee's pay or duty status otherwise. If an entire field office is not closed in observance of a state or local holiday, employees may not be excused on an individual basis under the provisions of this paragraph.

.05 Absence for Voting and Registration

a. It is the policy of the Department to excuse employees for a reasonable time, when practicable to do so without unduly interfering with operations, to vote or register in any elections or in referenda on civic matters within their community.

1. In general, where the polls are not open at least three hours before or after an employee's regular hours of work, the employee may be granted an amount of excused absence which will permit reporting for work three hours after the polls open or leaving work three hours before the polls close, whichever requires less excused absence.

2. Where it is necessary to enable the employee to vote, a greater amount of excused absence up to eight hours may be granted.

3. In jurisdictions where registration in person is required and it is not practicable to register to vote on a nonworkday, an employee may be granted up to eight hours of excused absence to register.

4. Up to eight hours of excused absence may be granted as required for an employee to prepare and have certified an absentee ballot, if these activities cannot be done during nonworking hours.

b. It is the policy of the Department to cooperate with local authorities and non-partisan citizens groups in programs to facilitate registration of voters. Such cooperation may include publicity among employees concerning the deadlines and locations for registration, provision of space in Federal premises for persons authorized to handle registration, and other voluntary measures which will not result in undue disruption to the public business.

.06 Absence for Conventions or Conferences

Employees who are authorized by appropriate authority to attend conferences, conventions or meetings in connection with and as a part of their official duties are in a duty status, and no grant of excused absence will be recorded. If the convention, conference or meeting is not directly related to the employee's official duties but attendance will contribute to the goals of the Department, it is within the discretion of the operating unit to excuse employees without charge to leave or to grant annual leave or leave without pay for such purposes. The leave and duty status of an employee who attends a meeting, conference, or convention should be clearly established in advance.

.07 Absence to Take Examinations

Employees taking non-competitive civil service examinations for positions in this Department, examinations established by operating units to determine qualifications for promotion, or competitive examinations to qualify for competitive status in the positions which they hold in the Department, will be excused for the time necessary to take the examination. Excused absence may be granted at the discretion of the leave-approving official for taking other examinations (e.g., the CPA exam, bar exam) which are directly related to the employee's current or prospective duties within the Department.

.08 Travel between Duty Stations

Employees required to travel to a new duty station shall be considered in a duty status during the period of travel if the transfer is made in the interest of the Government, whether or not the employee's transportation expenses are paid by the Government. In such cases, if the employee for personal reasons travels by an indirect route, or uses a mode of transportation requiring more time than is otherwise required, the additional travel time shall be charged to annual leave or LWOP. In any case in which an employee's transfer is primarily in the employee's interest, any absence on travel necessitated by the transfer shall be charged to annual leave or LWOP.

.09 Travel Time to Return to Place of Residence for Leave

Employees who return to the United States, or to their place of residence which is outside the area of employment in the Commonwealth of Puerto Rico or the possessions of the United States, shall be granted travel time without charge to leave under the following conditions:

a. Only employees eligible to accumulate up to 45 days annual leave are entitled to excused absence for travel under this paragraph;

b. The time involved (without charge to leave) shall not exceed what is actually and necessarily required by the mode of transportation authorized by the operating unit to travel to the employee's place of residence and to return to a duty station outside the United States.

c. Travel time shall be allowed for only one period of leave during a single tour of duty at a station outside the United States.

.10 Absence for Medical Examinations

An employee may be excused to take a medical examination in connection with his/her continued employment in the Department.

.11 Participation in Funeral Ceremonies

Employees who are veterans of any war, campaign, or expedition for which a campaign badge has been authorized, or who are members of honors or ceremonial groups of such veterans, may be excused for up to four hours in any one day to participate as pallbearers, members of a firing squad, or guards of honor in funeral ceremonies for members of the Armed Forces whose remains are returned from abroad for final interment in the United States. Other veterans who attend the funerals of deceased veterans as members of firing squads or guards of honor may also be excused from duty on the same basis and to the same extent.

.12 Treatment of On-the-Job Injury

An employee injured on the job will be excused for an initial medical examination and for immediate treatment by a Government physician or at an authorized treatment facility. Additional excused absence for follow-up treatment of job-related injuries may be granted for partial workdays on which the employee is otherwise in a duty status. Where local treatment is not available outside the continental United States, an employee injured on the job may be excused for whatever period is required for travel to and from the nearest authorized medical facility.

.13 Treatment for Illness Occurring during Working Hours

An employee who becomes ill during working hours may be excused for up to one hour for consultation and treatment in the nearest Government health unit or emergency room. Similarly, employees who are required under the advice of the treating physician to rest or receive periodic treatment may be excused for periods of up to one hour daily.

.14 Blood Donations

Employees who donate blood to the Red Cross, or in emergency situations to local hospitals or bloodbanks of nonprofit institutions, will be excused from duty to donate blood for up to four hours (not including the lunch period) unless their presence at work is required by the press of business.

.15 Emergency Conditions

a. ***Hazardous weather conditions***

1. **Policy.**

(a) When hazardous weather conditions, such as heavy snow, icing, or hurricane result in the closing of Federal offices for one or more whole days, all employees of offices affected by the closing, except those determined in advance to be performing critical functions, will be excused from work without charge to leave, including employees who would otherwise have been on approved leave.

(b) When hazardous weather conditions result in the late opening of Federal offices, all employees of the affected offices who report for duty when the offices open will be excused for the period of the closing. In addition, tardiness beyond the designated time of opening may be excused at the discretion of the leave-approving official if the employee has made a reasonably diligent effort to get to work on time.

(c) When hazardous weather conditions result in the early closing of Federal offices, employees who are in a duty status at the time of the closing will be excused for the period of closing. Employees who are on duty when an early closing is formally announced but who leave before the announced closing time shall be charged leave for the period of absence between their departure and the announced closing time. Employees who do not report for duty at all or who leave before an early closing is formally announced will not be granted any excused absence, but will be placed on annual leave or leave without pay for the entire period of their absence.

2. **Procedure and authority.**

(a) Washington, D.C. Metropolitan Area

The Deputy Director, Office of Personnel Management, or his/her alternate will make the determination whether Federal offices in the District of Columbia metropolitan area should be closed because of hazardous weather conditions. The Deputy Director's decision will be formally announced to the Director of Personnel and to the media. If the announcement of closing occurs during working hours, the Director of Personnel, or his/her designee, will notify each operating unit personnel officer.

(b) Field Offices

Each operating unit is authorized to make appropriate arrangements to excuse its employees in offices outside the D.C. metropolitan area because of hazardous weather conditions.

3. **Designation of employees.**

Each primary operating unit shall:

(a) Determine which of its activities, if any, must be continued in operation despite adverse weather conditions and make adequate preparation for the continuation of such services;

(b) Designate the employees who (including alternates, as necessary) will be required to continue to perform their duties, regardless of action taken to excuse other employees from duty;

(c) Clearly inform in writing (insofar as practicable) all employees so designated; and

(d) Review and revise the designations at least once a year.

4. **Inquiries.**

Officials and employees shall refrain from calling the agencies and offices responsible for making or communicating decisions concerning the closing of offices, to avoid congestion of telephone circuits and possible delay in the transmission of emergency messages.

b. ***Hot or cold working conditions***

1. Dismissals due to unusual employment or work conditions created by a temporary disruption of air cooling or heating sytems should be rare. Employees are expected to work if conditions at the place of work are reasonably adequate, although these conditions may not be normal and may involve minor discomforts. Individual employees affected by unusual levels of temperature to the extent that they are incapacitated for duty, or to the extent that continuance on duty would adversely affect their health, may be granted annual or sick leave. Before excused absence may be granted, it must be clearly established by reasonable standards of judgment that the conditions are such as to actually prevent working. Such matters as the physical requirements of the positions involved and the temperatures of the work areas should be considered.

2. When conditions listed above are met, the Director of Personnel may authorize the dismissal of employees in the Herbert C. Hoover Building, Washington, D.C. Under similar conditions, heads of operating units and their designated representatives may exercise this authority in other Commerce offices.

c. ***Other emergency conditions***

1. It is within the discretion of the head of an operating unit or his/her designee, to excuse the absence of employees due to emergency conditions such as flood, earthquake, air pollution, massive power failure, extreme cold, major fires, public health or safety emergencies, or widespread interruptions to public transportation caused by such incidents as strikes of local transit employees or mass demonstrations, for up to five workdays for one or more incidents of emergency within a 30 calendar day period. This discretionary authority should not be exercised where it is merely inconvenient for employees to report to work, but only where (a) conditions at the place of work are clearly intolerable or inadequate; (b) employees are or would be prevented from reporting to work despite reasonable efforts; or (c) local government officials have requested that operations be shut down because of emergency conditions. When an office is closed under these circumstances, all due diligence should be exercised to correct the conditions and to restore the operations of the office.

2. Emergency conditions do not include reasonably foreseeable conditions of employment, such as inclement weather which precludes work by outside construction workers. Suspension of work operations because of such conditions is not a basis for excused absence.

.16 Civil Defense Pre-emergency Training Programs

a. Full-time employees of the Department may be excused for up to 40 working hours during a single calendar year to participate in pre-emergency training programs, tests, or drills at the request of state or local civil defense authorities. However, members of the Civil Air Patrol ordered to participate in CAP activities (emergency search, training, or drills) are not eligible for excused absence for those purposes.

b. When an employee has requested and received approval for excused absence in excess of one day for civil defense activities, the employee shall provide to the leave-approving official a statement signed by a responsible official of the local civil defense organization certifying the employee's attendance throughout the period of excused absence.

.17 Notice Period Preceding a Removal or Indefinite Suspension

When an employee's removal or indefinite suspension is proposed, and the employee's continued presence at the worksite during the notice period would constitute a threat to public property or the health and safety of coworkers or the public, the employee may be placed on administrative leave for up to ten calendar days during the time required to effect the action according to the provisions of 5 CFR 752.

.18 Funerals of Members of the Armed Forces Who Die in the Line of Duty Outside a Combat Zone

When an employee's immediate relative (as defined in Section 12 of this Handbook) in the Armed Forces dies in the line of duty, but not in a combat zone as determined by the President in accordance with Section 112 of the Internal Revenue Code, the employee

may be granted excused absence for up to three workdays to make arrangements for, or to attend the relative's funeral.

.19 Notice Period Preceding a Reduction in Force

Employees who have received a general or specific notice of reduction in force may be granted excused absence for interviews for other prospective positions within the Department, during the notice period. For interviews with prospective employees outside the Department, absences should be charged to annual leave or leave without pay, as appropriate.

.20 Testimony at Administrative Proceedings

Employees called to testify at hearings conducted by the Merit Systems Protection Board or duly appointed arbitrators or grievance examiners, are considered to be working within the employer-employee relationship, and are not on excused absence as the term is used in this section.

SECTION 12. FUNERAL LEAVE

.01 Applicability

Funeral leave must be granted, without charge to any other type of leave, to an employee for the funeral or memorial service of an immediate relative whose death resulted from wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone.

.02 Definitions

a. ***Armed Forces***—the Army, Navy, Air Force, Marine Corps, and Coast Guard.

b. ***Combat zone***—area determined to be a combat zone by the President in accordance with section 112 of the Internal Revenue Code.

c. ***Employee***—any employee of the Department.

d. ***Immediate relative***—spouse, parents, children (including adopted children) and their spouses, brothers and sisters and their spouses, and any person related by blood or affinity whose close association with the deceased was such as to have been the equivalent of a family relationship.

.03 Administration

Operating units must excuse employees entitled to funeral leave for up to three work days to make arrangements for, or to attend the funeral or memorial service for an immediate relative who died as a result of wounds, disease, or injury incurred in a combat zone as a member of the Armed Forces.

SECTION 13. SHORE LEAVE

.01 Eligibility

Employees who are regularly assigned to duties aboard oceangoing vessels are entitled to earn shore leave. An employee is considered to be regularly assigned when his/her continuing duties are such that all or a significant part of them require service aboard an oceangoing vessel. Temporary assignments of a shore-based employee, such as for limited work projects or for training, do not constitute a regular assignment.

.02 Definitions

a. ***Oceangoing vessel*** means a vessel in use on the high seas or the Great Lakes; but does not include a vessel which operates primarily on rivers, other lakes, bays, sounds, or within the three-nautical-mile limit of the coastal area of the 48 contiguous States, except when used in mapping, charting, or surveying operations or when in or sailing to or from foreign, territorial, Hawaiian, or Alaskan waters, or waters outside its normal area of operations or outside the three-nautical-mile limit.

b. ***Voyage*** means the sailing of an oceangoing vessel from one port and its return to that port or the final port of discharge.

c. ***Extended voyage*** means a voyage of no less than seven consecutive calendar days duration.

d. ***Shore leave*** means leave authorized by 5 U.S.C. 6305(c).

.03 Computation of Shore Leave

a. ***Earning rates.*** An employee earns shore leave at the rate of one day of shore leave for each 15 calendar days of absence on one or more extended voyages.

b. ***Duration of voyage.***

1. For an employee who is an officer or crewmember, a voyage begins either on the date he/she assumes duties aboard an oceangoing vessel to begin preparation for a voyage or on the date of boarding when a voyage is in progress. The voyage terminates on the date the employee ceases to be an officer or crewmember of the oceangoing vessel, or on the date on which the employee is released from assignment of duties relating to that voyage aboard the oceangoing vessel at the port of origin or port of final discharge, whichever is earlier.

2. For an employee other than an officer or crewmember, a voyage begins on the date of sailing and terminates on the date the oceangoing vessel returns to a port of which the employee will disembark in completion of the assignment aboard the vessel, or on the date he/she is released from assignment aboard the vessel, whichever is earlier.

c. ***Computation.*** The following days are counted as days of absence: (1) the beginning date of a voyage and the termination date of a voyage; (2) the days an employee spends traveling to join an oceangoing vessel to which assigned when the vessel is at a place other than port of origin; (3) the day an employee spends traveling between oceangoing vessels when the employee is assigned from one vessel to another; (4) the period representing the number of days within which an employee is necessarily expected to return to the port of origin when his/her oceangoing vessel's voyage is terminated, or his/her employment as an officer or crewmember is terminated, at a port other than the port of origin; (5) for an employee who is an officer or crewmember, days on sick leave during a voyage (whether or not continued as a member of the crew) but not beyond the termination date of the voyage of the oceangoing vessel or the employee's repatriation to the port of origin, whichever is earlier; (6) for an employee other than an officer or crewmember, the days on sick leave but not beyond the date of return to the port of origin or the termination date of the voyage, whichever is earlier; and (7) the days of approved leave from a vessel (paid or unpaid) during a voyage.

.04 Granting Shore Leave

a. ***Scheduling.*** Although shore leave is a benefit that accrues automatically to an employee, the leave approving official may decide when the leave will be taken, except that shore leave may be granted during a voyage only at the employee's request. An employee's request for shore leave shall be in writing; if denied, the denial shall be in writing.

b. ***Accumulation.*** Shore leave is in addition to annual leave and accumulates without limit.

c. ***Charges for shore leave.*** The minimum charge for shore leave is one day; additional charges are in multiples of one day.

d. ***Lump-sum payment.*** Shore leave may not be the basis for lump-sum payment on separation from the service.

e. ***Terminal leave.*** Shore leave may not be granted as terminal leave, unless the shore leave was not previously used because of circumstances beyond the employee's control.

f. ***Forfeiture of shore leave.*** Shore leave not used before separation from the service, or assignment (other than a temporary detail) to a position in which shore leave is not earned, is forfeited. When an official assignment may result in the forfeiture of shore leave, the operating unit, where practicable, shall give the employee the opportunity to use accumulated shore leave before the new assignment begins, or within six months of the date of the reassignment when the opportunity cannot be given beforehand.

SECTION 14. INTERPRETATIONS AND EXCEPTIONS

Within the limits of administrative discretion permitted to the Department, exceptions to the provisions of this Handbook may be granted from time to time in unusual cases by the Director of Personnel, or his/her designee, whenever the facts of the situation indicate that such an exception would promote the efficiency of the service. Each request for such an exception shall be submitted in writing, in advance (except as otherwise authorized), and shall contain a full statement of the justification for the request.

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